

THE BOOK OF THE COVENANT.
(EX.XX.22 - XXIII.33)

A NEW APPRECIATION.

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PREFACE.

The passing of time has made a revised estimate of the Book of the Covenant a necessity.

For a quarter of a century it would seem to have been the business of no outstanding scholar to make this interesting, valuable, and important Code the subject of an independent and exhaustive re-examination, and the work of Baentsch, 'Das Bundesbuch', (Halle, 1892) may be said to have been taken during all these years as the last word on the subject. Much water has, however, flowed under the bridges of criticism and scholarly exploration since that date and one cannot read even Baentsch's able and expert work today without being aware that it begins to bear the tinge of the obsolete.

In the interval, while investigation in this particular direction has halted, two distinct factors have come into play each with a decisive bearing upon this study. The first is a contribution to criticism - from the archaeological side, additional important material having been excavated from the soil of the ancient Orient; the second an attitude of criticism - a factor more vital and significant than the first - the newer critics offering an ever broadening challenge to the older critical positions.

Much might be said about this second factor. I may only observe that here it is no question of the holders of the old traditional theory emphasising their opposition to the critical findings of the last century; but of keenly critical-minded scholars of today, sharing much of the common ground of that criticism, yet canvassing some of its main positions long held to be assured. In this connection it will be sufficient to refer to the recent notable work of Dr. Welch on the "Code of Deuteronomy", and of R.H. Charles on "The Decalogue".

The aim and plan of this Thesis will be as follows: after an introductory consideration of Hebrew Torah in general and its bearing on the Code, to subject the Book of the Covenant to thorough scrutiny from all sides, treating in detail -

- I. The Contents;
- II. Philology and Style;
- III. Text and Original Position;
- IV. General Characteristics;
- V. The Basic Principle;
- VI. Comparison with Other Codes;
- VII. Date.
- VIII. Subsequent Influence.

From the investigation the following findings will, I believe, be seen to emerge:-

- 1. The long-accepted basic principle has been erroneously interpreted.
- 2. The Code is much earlier in date than has commonly been held, and is essentially Mosaic.

3. It is original and independent in its own right and is not the product, in any sense, of Deuteronomie or Prophetic factors.

4. The Code possesses an amazingly wide and rich vocabulary, mostly peculiar; in many cases exclusively so.

5. The first fundamental OT. document, the Code's influence was sole and supreme for centuries. It left its mark on every Prophet and writer of importance in OT. It markedly influenced NT. and subsequent Christian thought.

New findings within the Code itself are:-

6. All slaves, male or female, were liberated after six years, with only two stated exceptions.

7. The אִשָּׁה עֲרָמָה was not an ordinary slave; she belonged to a class always treated as distinct; was always denoted as married, or as designated for marriage.

8. Burglary, or housebreaking, is not mentioned in the Code. The 'thief' of ch. 22:1 is a cattle-thief.

Further new findings, directly related to the investigation of this Code, I submit as follows:-

9. The so-called Yahwistic 'Decalogue' is not a decalogue but a portion of J's partially-preserved 'Book of the Covenant', and that a later recension.

10. The historical priority of Law to Prophecy is indubitable.

11. The so-called 'Shechem Decalogue' was part of the ritual used at the annual celebration at Shechem (the place of its inauguration) of the institution of this Code.

These findings (severally and conjointly) an 'original contribution to learning', as I trust they

may be considered) are calculated to reinstate the Book of the Covenant in something of its original prestige.

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and 38 Articles.

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Every book and article mentioned above has been in my hands and most have been read in full.

This applies even to 'BDB' every page of which has been read or consulted in connection with the reading of the whole OT.

In the process a list of several scores of Addenda and Corrigenda has been drawn up, many of them of the irritating sort of mis-references, and none of them included in its own list.

A serious misprint occurs also in Driver's 'Exodus', p. 368, which had apparently escaped all notice for thirteen years as the Educational Secretary of the Cambridge University Press sent his thanks for the notice.

It seems strange that a work of such importance as Charles's 'Decalogue' cannot be found in the Edinburgh University or Public Libraries, though published by a prominent Edinburgh firm many months ago. Yet I found it in Leeds Public Library in August.

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Legal systems of the first importance were known, in the Ancient East. This fact, which does not seem to have impressed the general mind as it should at this date, has been open to all to observe since the momentous discovery of the Code of Hammurapi disclosing, as it did, a remarkably efficient and comprehensive system of legislation, in apparently perfect working order, two thousand years before

Christ. The fact has received telling corroboration during the last ten years by further discoveries that will come under review later; but meanwhile enough has been said to establish the interesting and important circumstance that Israel was not isolated in its possession of a system or systems of law.

The word "law" as used throughout the centuries is one that exhibits a very varied connotation, but taking it for the moment in its popular sense, it is observable that there is in the OT. a surprisingly large amount of material that may be assembled under that term. Thus it is possible to speak of the "Law Literature" of the OT. and important monographs have been written on the general subject alone.

That a knowledge of its 'law' is vital to efficient study of the OT. led the bilingualist Reuss, for example, to assert in one of those propositions which, alas! did not emerge from the obscurity of his manuscript for thirty years, "l'intérêt principal de l'historien doit porter sur la date des lois, parce que sur ce terrain il a plus de chance d'arriver à des résultats certains," and the investigator in other fields will do well to heed the counsel. ('L'histoire sainte et la Loi', cited Art. 'Hexateuch' Enc. Bib.)

There are numerous terms of allied significance for "law" in the OT. vocabulary -

הָרָצוֹן, the chief word of all, to be dealt with presently;

דִּשְׁמוֹן, (422t.) a judicial verdict, sentence, legal 'opinion'; moral or ritual command; "right".

צִוְיָה, (181t.) "commandment", the term which D. uses most freely though with him צִוְיָה is a good second;

פֶּה, (127t.) and its cognate פֶּה, (104t.) "something prescribed, statute, enactment"; (from the root פֶּה, lit. "something engraven"; reminiscent of stone-writing.)

עֵד, (46t.) "testimony", a more distinctively moral and religious term, indicating a solemn divine charge;

צִוְיָה, (24t.) "precept", thing appointed, charge.

The above are presented by Driver in his Art. "Law" in Hastings's D.B. as the synonyms of Torah in OT. The list is, however, notable for several striking omissions and it is debatable whether the description 'synonyms' is applicable to them all. Some, at least, and especially the last, would seem to be only subsidiary terms to be classed under the more comprehensive 'torah'. It is also a matter for surprise that עֵד, (12t.) "decree, law", a word of the Persian period, should have been omitted, for it is a real synonym, whatever its origin may be. More surprising still, however, is the omission of the term

דִּבְרָה, (1439t.) which, in addition to its common and very frequent usages, carries also an unexpectedly large number of the technical features of 'torah', e.g.:- "word of command", (1Ch. 21:4, 6); "(royal) edict", (Est. 1:19); "decision, sentence", (Dt. 17:9); of God - "commandments", prophecy, etc. (very frequent); with preceding 'ten' - of the codes and law books, (Dt. 17:19; Jos. 24:26); "matter, case, cause" (for judicial investigation); "manner, custom", (Ex. 18:16; and Gn. 18:25), in most of which cases references might easily be multiplied.

cf. Wellh.
1st. of Isr.
.397.

It will be seen from these citations how genuine a synonym [@]תּוֹרָה is. Further, a number of other terms, such as Isaiah's תּוֹרָה, (8:16, 20), and even תּוֹרָה, (5:24); and תּוֹרָה, (Is. 28:10; Hos. 5:11); תּוֹרָה, (Gn. 45:21; Ex. 17:1, etc.); and תּוֹרָה, (Lv. 18:30; 22:9 etc.) might well find a setting alongside some of the latter on Driver's list.

Of all these synonyms of 'torah' special mention should be made of תּוֹרָה, (with which, it is to be noted, תּוֹרָה is often honourably associated). The special care with which Baentsch reduced the regulative significance of this important term ('Bundesbuch' pp. 29-33) has resulted in the final establishment of its juridical sense. His conclusion is: "Seine eigentliche Geltung aber hat תּוֹרָה in der juridischen Sphäre, und es dient an sich nicht zur specifischen Bezeichnung des rein sittlichen Rechts und seiner Relationen". The moral law is, of course, often named in conjunction the juridical; תּוֹרָה is ascribed to Yahweh and to His ways; but even so, Yahweh is indicated not so much as the Perfect and All-Just One from the ethical point of view, but rather as the Judge par excellence, the World-Judge, the highest Representative and Executant of Justice; only in isolated instances are תּוֹרָה and תּוֹרָה found to indicate the divine law in its totality.

Taking up the word תּוֹרָה at this point, it may be remarked at once that all that we have just seen תּוֹרָה excludes, תּוֹרָה, within the bounds of its synonymity, embraces. Of all the OT. words for 'law', תּוֹרָה, interesting alike in its etymology, connotation, and history, has alone attained to an outstanding and classical position.

Coming out of הָרָר , and occurring 217 times in OT., it originally signifies either the 'casting' of lots for an oracle, or otherwise obtaining a 'direction' (presumably sought in some difficulty). Out of this sense of 'oracular pronouncement, decision' (Ex.18:16; 2Ch.15:6; Hag.2:11; Jer.18:18), grew that of 'instruction, teaching' in a general sense (Pr.1:8; 4:2, etc., Ps.19:8); it further acquired the meaning of 'rule, regulation, order' ('of the day') 'as for the various offerings in Lv.6:2, etc. Ez.12:12, the 'law' of the house; 'rule, standard' (Pr.30:26; Mal.2:6). Allied to this sense is that of 'custom, rule, use and wont', (2S.7:19) in which features it is entirely synonymous with עֲשֵׂה ; then, taking a larger connotation it signifies 'code of laws, legislation', (Dt.1:5, etc. Ezra 7:6, etc.); and lastly, in its final and grandest sweep, it embraces the whole 'law of God', the revelation, even the religion of Yahweh, (Is.51:7; Ps.40:9; Je.31:33; 8:8; Mi.4:2).

Such are the general meanings of Torah within the OT. Of certain specialised senses more will be said later; of the subsequent popular Jewish usage in reference to the Pentateuch, it is not necessary here to speak.

The substance of the earliest tradition of the origin of the Hebrew Torah is given in Ex.18:16 (E). Here Moses, at the request of his father-in-law Jethro, describes the procedure. "The people come to me", he says, "to consult God. Whenever they have a case they come to me and I decide between one man and another

er and let them know the decrees and the directions of God," (אֶת-הַקְּרִי הַאֲצִלִּים וְאֶת-תּוֹרָתוֹ). It is noticeable that 'toroth' are not thus described alone, but subsequent usage proves the word to have acquired this technical significance.

Here, in any case, we have the oldest Hebrew tradition referring the origin of the Divine Torah to the sentences taught by Moses at the sanctuary of Kadesh, or Meribah, beside the holy fountain or 'fountain of judgment'. (Wellh. 'Hist. of Israel' p. 343; W. R. Smith, 'Rel. of Sem.' p. 165.) And this was no isolated act. It was a process that went on for forty years there. (Wellh. ib.)

Now, though the word 'torah' does not occur in our document - the nearest appearance being in chap. 24, v. 12, in a passage describing the events immediately connected with the promulgation of the laws - there are repeated references to the procedure indicated above (Ex. 21:6; 22:7; 22:8, 8; the bringing of difficult cases 'before God') in which passages provision is thus made for the continuance of the procedure in the future.

After the death of Moses the tradition was continued by the priests. In short, it may be said, Sinai was no finality.

The proper interpretation of 1 Sam. 2:25, obscured as it is in both English translations, is that God acts as arbiter between man and man, and it may be said that this naive conception of the time of Eli is never lost. Isaiah's caustic "precept upon pre-

cept, line upon line, here a little and there a little" may be taken as implying that in his view Yahweh's Law is still a living and a growing thing that has to be imparted to Israel as to infants. (W.R.S. 'OTJC'. p.339.) Indeed it is one of the latest prophets who describes the process with the greatest vividness.

In order to emphasise a somewhat sombre truth for the benefit of the returned exiles, Haggai (2:11) is bidden to ask a torah from the priests precisely as if this were the customary thing to do. The pronouncement required is as to the effect of contact first, of a holy thing and second, of an unclean thing (or person) upon other things. When it comes to the actual request for guidance he is to ask two questions, putting them in such a way that a simple 'yes' or 'no' is all the answer that need be returned. Having put these two questions, he receives two monosyllabic answers. These answers constitute a Torah, presumably after being incorporated in the body of the question which would then become a positive or negative pronouncement as the case might be.

Two conclusions are to be drawn from what precedes: first, that Yahweh is the source of all law for Israel; and second, that that law is, in a surprisingly permanent degree, oracular in character.

The latter conclusion will not appear so strange, perhaps, when the fact is considered that in all countries law, in its most primitive form and character was oracular. "In all ancient religions, even in Semitic heathenism, the chief object of the

worshipper was to obtain an oracle from his god."

('OTJC'.p.286.)

The Babylonian oath-tablets, again, throw an interesting light on the origin of a parallel custom in ancient eastern procedure. The priest, indicating the man guilty of sin (which is anything contrary to what the god loves or hates) and desiring an oracle, asks a long series of questions such as: Has he offended a god?...contemned a goddess?...despised father or mother?...shamed an elder sister?...taken money dishonestly?... drawn an unjust boundary? These oracle-questions, transmuted into categorical prohibitions, go to constitute Babylonian sacred law. (Gressmann.'SAT'.II.1.p.232f.)

In another connection the ancient Egyptian ritual of the dead furnishes a parallel. When the departed passes into the Hall of Truth where Osiris sits enthroned with twenty four judges round, he must first make a negative confession, as: 'I have not done anything the gods abhor;' 'I have not spoken ill of a servant before his master;' 'I have not made anyone weep;' 'I have not killed;' 'I have not dealt ill with any man;' ... Then he must make a positive confession, as: 'I have done the thing men praise and the gods delight in;' 'I have satisfied God with the offering He loves;' 'I have given bread to the hungry and water to the thirsty;' These statements, too, are easily convertible into imperative prohibitions and commands. And thus it may be safely inferred that

practical interest was fostered in sacred law among the Egyptians by the fear of future judgment - which was unknown, apparently, either among the Babylonians or the Israelites. (Gressm., *ibid.*)

Ancient Greece provides traces of the same kind of tradition. The *Θέμιτες* of Homer (Il. Bk.I., l.238; Bk.IX., l.99.) are decrees of God, 'oracles' whose divine origin are evident in the name of *Θέμις* with whom they are identified. Though rather a thin abstraction, *Θέμις* is acknowledged as the goddess of custom and customary rights the foundation of which lay in the oracular pronouncements also reflected in the word *ῥίκαι* - Saxon 'dooms' or 'judgments', whose sense is paralleled in certain usages of 'jura' in Latin. (Od. Bk.III. l.244. Butcher and Lang: 'Od. of Hom.' p.415.) It should be noted, however, that while *Θέμιτες* may be concerned with 'jus' and 'fas' they are never so with 'lex'.

So, further, Mahomet, in his capacity as prophet became a judge, lawgiver and captain, the Arabs of different clans being quite willing to refer to a divine authority questions of right and precedence in which they would not yield to another. They brought their difficulties to the prophet as the Israelites did to Moses and his decisions became the law of Islam as those of Moses were the foundation of the Hebrew Torah. (W.R.S. 'Rel. of Sem.' p.7.)

The means and instruments of obtaining toroth were 1) the Urim and Thummim; and 2) the ephod. However difficult it may be to determine the precise form and nature of these things, their function is a fact established. How long they continued is a further matter of doubt. Dt. describes the former as the true and universal insignia of the priesthood and there is an intriguing reference to them as late as Ezra 2:63- Neh. 7:65. The last mention of the ephod, according to Bleek, is 1Ki. 2:26. Dr. Welch states ('Rel. of Is.' p. 43) that men forsook the oracle method in the time of Samuel, but we have to reckon with Haggai as cited above, and in any case, if the Torah freed itself in the course of the general mental advancement from such mechanical media, it continued to be an oral decision and direction. (Wellh. op. cit. p. 394.)

The period of the introduction of writing among the Hebrews is disputed, but, however early it was, there can be no doubt that among them as among other ancient nations the laws were for the most part promulgated orally, being short and succinct in form and easily committed to memory. (See especially Gunkel, 'SAT'. I. 1. p. 8.) This was particularly true for long of consuetudinary laws. (Benzinger. Enc. Bib. 2717.)

It is probable, as Gressmann suggests, that at first the main laws were set up in some holy place where all might read them; and very probable that, as has been seen in other early religions, the laity learned sacred law from the worship. ('S.A.T.' II. 1. p. 232.)

Whether written or oral, however, it is with Hebrew Law in its inception that the great name of Moses emerges. If Yahweh is the source of all law, Moses is the medium through whom He reveals it to His people. (Gray. Enc. Bib. 2730.) "Alle Tora stammte, so nahm man von vornherein an, von Mose." (Haller. 'SAT'. II.3.p.187.) This is the unfailing tradition. The one personal name, associated as it is from beginning to end of the OT. with the foundation and promulgation of the Torah, is that of Moses.

Even the highly important and epoch-making developments of succeeding ages; even the age-long oral traditions subsequently embodied in the Mishna are directly ascribed to him. There is no doubt that such ascription has a genuinely historical cause. It may savour of exaggeration to say, as M^cNeille does, that "the existence and character of the Hebrew race require such a person as Moses to account for them;" (Art. 'Moses'. Hast. DB. i vol.) but sober criticism notwithstanding the negative attitude of Cheyne, for example (Art. 'Moses'. Enc. Bib.), or the non-committal attitude of Dillmann ('Ex. & Lv'. passim) and many others, does admit that the religion, worship, and Torah of Israel demand the emergence of just some such living and potent personality at the time of their institution.

If this is true of any of these three it is true of the last; so that if it is "scientific" it is unphilosophical to conclude with Gunkel - "wir auch nicht imstande sind, ein einzelnes Wort zu nennen, für das wir mosaischen Ursprung sicher behaupten oder auch nur

wahrscheinlich machen könnten." ('SAT'.I.1.p.9.)

But admitting the historical personality, it can be only in a representative sense that all law is ascribed in Israel and in later Judaism alike to Moses. For the time came when no single torah ranked as valid which had not originated with Moses; when there was no Torah-book in existence in Israel that did not claim to have Moses as its author. In this Israel did but follow the rest of the ancient East where it was the habit to derive a particular species of literature from a particular personality. Thus as they ascribed the Wisdom Literature to Solomon, the Psalms to David and the Apocalyptic Literature to Enoch, so they attributed all Law to Moses.

From such simple beginnings as we have seen, but with such a dominant personality behind them, the whole remarkable subsequent development sprang.

That development was embodied in the course of the centuries in four different important Codes corresponding roughly with as many periods in the history of the nation.

Kent in his 'Laws and Legal Precedents' posits the periods: 1) the Nomadic (before 1200); 2) the Post-settlement (1200 - 842); 3) the Prophetic (842-586); 4) the Exilic and post-Exilic (586 - 300); and 5) the Oral. Differing from Kent, however, on rather important points in his view of the earlier stages, and observing that Gray's tabulation of 1) Pre-Josianic; 2) Josianic; 3) Exilic; 4) Early post-Exilic; 5) Later

post-Exilic; 6) Rabbinic is concerned with the Literature of the Law, I submit the following conspectus:-

First: The Mosaic Period, 1200 - 650 B.C.

The Code identified with this period is the Book of the Covenant. Other notable, but much shorter collections, viz. the 'Decalogues' of Ex.20 and Ex.34, fall very early within it, as well as Dt.15-26.

Second: The Deuteronomic Period, 650 - 586 B.C.

This period leads up to and is reflected in Deuteronomy, a Code whose importance is only equalled by its notably exalted religious and moral feeling.

Third: The Exilic Period, 586 - 444 B.C., which produced the very distinctive Code now generally denominated the "Law of Holiness."

Fourth: The Post-Exilic Period, 444 - 250 B.C., by which time the Canon of the law may be said to have been closed. This period was dominated by the Code which was to set its mark perhaps more deeply upon Hebrew life and character than any other and to be known as the Priestly Code.

A fifth period - the later Oral (Kent), or Rabbinical (Gray), 300 B.C. - 200 AD. - may be added; but that really falls

250 BC ↑

outside the OT. and our consideration here.

The above tabulation may be considered at once natural and comprehensive. It appears simple and obvious but it is not more obvious than the facts upon which it is constructed. It is not claimed either that there is a distinct line of demarcation between the various periods or that each particular code by itself was the only one observed within its denoted period, but it must be plain to students of Hebrew history that that history, more than in the case of any other ancient peoples, was identified with the development of its law.

We have to gather information with some carefulness from the record regarding the authorities who were charged with the administration of the law. In the earliest times these were the 'elders' - heads of families, 'sheiks'; and this is the manner of administration, though it is nowhere detailed, which underlies the Book of the Covenant. Their executive power was slight and they were compelled to rely very largely upon moral suasion. They could advise but not command. In a dispute they could give decisions, but they could not execute their judgment upon such as refused to submit to it. (Benz. 'Govt.' Enc. Bib. 1903.) (This may help to explain the procedure of "bringing before God". In the last resort He was Judge and the appeal for obedience was thus to the most solemn and sacred authority.) That power came slowly, ('OTJC'. p. 341. p. 368.)

Later the king, or a military chief or officer was endowed with authoritative functions,

and the former might even be appealed to directly, (2S. 15:2ff.) but their precise powers and their limitations or otherwise, and their relation to the 'elders' who still, apparently, exercised preeminence in this regard are impossible to determine. (Benz. Enc. Bib. 2718f.)

There can be no dubiety, however, concerning the association of the priests with the administration of justice. As we have seen the Urim and Thummim, according to D., were their inalienable insignia. That code exhibits 'the priests, the Levites' as a kind of college of justice and their identification with the administration as late as the Exile is recorded. (Hag. 2:11ff. Mi. 2:1.7.) It is hardly too much to say that their decisions were responsible for a large, if not a preponderating, proportion of the laws of the OT.

The Sanhedrin in the last period of all formed a Supreme Court of Appeal and well on into NT. times they with the scribes were the recognised sources of the administration and of the technical knowledge of 'the law'. (Benz. op. cit. Kent. op. cit. p. 12)

The Hebrew Torah, as it lies before in OT. is an amalgam of curiously varied elements embracing common, civil, ceremonial, and moral law. It even contains that wonderful combination of narrative, poetry and law to which in later times was to be given the title of TORAH, par excellence, and which is comprised in the first five books of OT. No word has yet been said, though there is much to say, of the prophetic Torah

but, when that is included, it is difficult to see how the connotation of the word in its widest sense can stop short of the Hebrew religion; for certainly all Terah, from the least even to the greatest, was Yahweh's Terah.

It will thus be seen that OT. law is not what we are accustomed to conceive under that term today. It is not the Jurisprudence, for example, whose history is traced by Maine in his "Ancient Law". Maine cites what are really interesting Greek parallels to the oracular rudiments already described but he does not even mention Hebrew Law. He starts from the "Twelve Tables" of Rome, modern law being founded mainly on Roman. Neither, consequently perhaps, is OT. law in any sense comparable to our modern statutory systems of 'private and penal' legislation.

The absolutely distinctive feature of Hebrew law lay in its essentially religious character. The amount of purely civil legislation, in comparison with the whole, is really negligible. What there is of it preponderates in the early period and fades away proportionately later. Thus in the Bk. of the Govt. the civil enactments rather exceed the religious. Gressmann observes this and adds: "auch die jüngeren Novel-
len ('constitutions, codes') haben an diesen Charakter nichts geändert;" ('SAT'. II. 1. p. 233) but here he is surely at fault for scrutiny shows that in Dt. the civil are only about equal in number to the religious,

whereas, in the Priestly Code, the regulation of religion and worship absorbs the entire attention of the law-makers.

But, paradoxical as it may appear, even the civil elements are to be construed as religious, and this will justify such pronouncements as Rothstein's ('Das Bundesbuch' p.5.) that there never was law in Israel whose requirements were not religious.

For the explanation of this we are carried back to the most primitive stage of Semitic society. W. Robertson Smith has conclusively shown ('Rel. of Sem.' pp. 219-281) that in the early tribe religion and communal duties were indissolubly united. A man was born into a double relationship, on the one hand to his god, on the other to his kin, and his religion was "but one side of the general scheme of conduct prescribed for him by his position as a member of society." Thus there was no separation between the spheres of religion and ordinary life and conduct, (Ib. p. 31.) and every sound and wholesome ordinance of daily life as, for example, the rules of good husbandry (Is. 28:28ff.) was part of Yahweh's Torah. ('OTJC' p. 340.) If, again, a man changed his tribe, he changed his god and this but emphasises the practical identity of moral, social, and religious relations and among the Semites this was the original type of religion out of which all other types grew. ('Rel. of Sem. pp. 37-53 passim.)

Finally, when it is realised that what distinguished Israel from other nations was essential-

this - that Yahweh, their God, was Israel's Judge and therefore Israel's Lawgiver, we reach the height of the argument for the religious constitution of Israel's law.

But 'religion' and 'religious' are words capable of a nobler or a narrower interpretation and the difference in spirit may be vital. What was the religious spirit of the Hebrew Torah thus far considered? A glance further ahead will be useful.

The centuries subsequent to Moses saw the growth of a great reverence for his name and work. Most of all in the period of the Exile did this feeling deepen and harden until in the post-exilic time the Law became sacrosanct. The Rabbinical Literature is full of its exaltation. 'Wisdom', 'God', and the 'Torah' are almost interchangeable ideas. The other books of OT. will disappear, but the Torah will endure to eternity. Strict observance of the Torah is the Alpha and Omega of the religion of the Synagogue. (Oest. and Box. 'Rel. & Wor. of Syn.' pp. 162-167, &c.) Fantastic assertions are common, such as that the Torah existed two thousand years before the creation; God Himself is a diligent student of the Torah and Himself obeys it; and that "there are twelve hours in the day: during the first three the Holy One sits down and occupies Himself with the Torah." ('Abodah Zarah'. 3b.)

The very exaggeration of these estimates together with observation of the general trend of thought go to prove that the religion associated with the Law was of a specific type so far, at least, as we

have yet discussed it. It is, in short, a form of piety which consists in the mere fulfilling of legal requirements and which per se was believed to justify man in the sight of God. The description of 'legal religion' (Marti.p.30.), which has been given to it, is justified. The main document of the Pentateuch is 'priestly' in nature no less than in name. P's "religion" is evident in his vocabulary. I find, for example, he makes a monopoly of the word קָדֵשׁ , employing it, noun and adjective, no fewer than 210t. and verb, 62t. Now the connotation of קָדֵשׁ is, on the whole, concerned not with the character of the worshipper but with his ceremonial purity. With יָשָׁר , on the other hand, a word of genuinely and exclusively ethical content, P. is not concerned at all. This adj. occurs 17t. in the Pent. and 205t. in all in OT. but it is extraordinary that P. should have use for it only once and that in the narrative (Gn.6:9). He never uses the verb, and he never uses the noun. (יָשָׁר is found 4t. in H.) No chronological or other argument can invalidate the impression produced by these philological facts with regard to the nature of the religion advocated by the Law.

Deuteronomy, more spiritual because more impressed by the genius of the prophets, was, it would be folly to deny, completely overshadowed by the supreme influence of the later document, characterised in sinister terms by Cornill ('Intro.' p.115) who concludes that the legislation of P. is a reversion to a type of religion already obsolete.

This may be said to be every critical student's view. W. Robertson Smith declares that the Law presents an artificial system of sanctity radiating from the sanctuary and extending to all parts of Israel's life. It never actually supplied the religious needs of the people and the type of religion maintained by such a system is certainly inferior to the religion of the prophets which is a thing not of form but of spirit. ('OTJC'.p.315.)

For the truly religious aspect of the Hebrew Torah we must turn to the prophets.

The prophets nowhere speak of receiving toroth in the manner in which the priests did. From the beginning, and doubtless throughout, they received their communications while more or less under psychic (clairaudient and clairvoyant) conditions, which in no way dulled but rather accentuated the acumen of their conscious mind and moral judgment. With reiterated insistence they claim for themselves as direct communication with God as did Moses and the priests. Theirs was no book-revelation such as the priestly Torah became, with all its rules and prescriptions for gaining and regaining the favour of Yahweh. For the prophets the Torah had a very different meaning. Their creed was not to be found in any book.

Moses himself was essentially a prophet, (Wellh. 'Hist. of Is. p. 396. Ewald. 'Gesch. d. Volk. Isrl. vol. 2. p. 62. Marti. 'Rel. of OT'. p. 63f.) and according to the prophets his Torah had nothing to do with the cult-

us. They seem never to have dreamed that it could possibly have been made the subject of Yahweh's direct - ions. The Torah committed to them laid it on them as their vocation to diffuse the knowledge of God in Israel, the knowledge that He seeks truthfulness and love, justice and considerateness, and no gifts. (Wellh.op. cit.p.57.) Moses was therefore their spiritual father and there is no doubt that they regarded themselves as his successors. Prophecy, in short was spiritual and its Torah was spiritual.

Dr.Welch's interesting description of the fraternising of priests and prophets at the early sanctuaries properly suggests that locality and even function may for a time have been identical, but the alliance was soon abandoned. (v.'OTJC'.p.292f.) He also warns against over-stressing the momentous saying of Hosea, 6.6, "I will have mercy and not sacrifice", but that warning cannot be taken as the last word on the subject in view of the weight of the cumulative utterances of the prophets bearing the same sense. ('Rel. under KGDM.'.pp.121ff., 29ff.)

Wellhausen and Robertson Smith have almost exhausted argument to prove the essential antagonism between the priestly and the prophetic view of Torah and its content. ('Hist.of Isr.'chaps.II&X; 'OTJC'.Lect.X). Recent writers have become ever bolder. In his "Jeremiah" (p.158.) Principal Smith makes the statement: "It is certain, first, that Amos and Jeremiah meant literally what they stated or implicitly

led their hearers to infer - God gave no commands at the Exodus concerning burnt-offerings and sacrifices - and second, that historically they were correct." Dr. Welch also asserts that with Amos and Hosea, Jeremiah came to the conclusion that, in the interests of true religion, it was better that the State should go and further, that even the Temple should go; and holding these things strongly, he bent his whole energies to show that religion was independent of these two outward forms and could continue even after they had vanished.

It is no wonder that they should so contend for Prophecy at its best and all the way through from Amos to Zechariah, rings the same note. Amos initiated the age-long antagonism in his famous conflict with Amaziah. (G.A.S.'12 Prophs'.p.115ff.) Isaiah in his opening indictment of Judah, is not holding the institution of sacrifice in light estimation, he is laying down an absolute principle. Micah, discussing the very question in the frankest terms, has no shadow of doubt as to what God requires and his statement of it purposely and rigidly ignores all ritual observance. Hosea has the signal honour of having his statement of the Divine will in the matter (6.6) quoted by Jesus on two occasions and with complete approval. (Mt.9:13;12.7) Allusion has already been made to Jeremiah's far-reaching conclusions as to the futility of ritualistic principles and institutions but in chapter 7:21-23 his view sweeps back to the beginnings of Israelitish hist-

ory and he boldly denies their existence then.

Is there any medium of reconciliation between these two permanently and broadly divergent views available? It is apparently possible for even responsible writers to ignore it, but the words of Kent who may be taken as representing them, that "Law and Prophecy are not antithetic," (Op.cit.Pref.p.v.) seem meaningless in view of the facts. Attempts at reconciliation generally take the form adopted by Dr.Scott Lidgett in his "Spiritual Principle of the Atonement" (p.115ff.) who, frankly acknowledging the cleavage, seeks to explain it by reference to a common divine inspiration and the satisfaction of the needs of distinct types of mind. The explanation is inadequate for it fails to account for many of the facts. In the course of his long and thorough-going discussion of the subject, W.Robertson Smith seems to have nothing better to offer than this: "The systems are not identical; but may they at least be regarded as supplementary?" ('OTJC'.p.292.)

Does the NT.provide a solution? Let us see. In the final issue, it was the priestly and not the prophetic Torah that prevailed. Judaism survived; prophecy died. But it had a glorious resurrection in the greatest spiritual revolution the world has known. Jesus was the last of the Prophets and the Faith of which He was the Founder "stood among the faiths of the world as an extraordinary thing - a priestless religion without the symbols, sacrifices,

ceremonies, officials, hitherto, save by prophetic Hebraism, held to be the religious all in all." (A.M. Fairbairn. 'Christ in Mod. Theol.' p.49.) Such was Christianity as Jesus conceived it and left it. By the time of the Fathers and especially of Cyprian, there was a rejuvenescence of sacerdotalism and the age-long antithesis, if different in form and expression, is extant to this day.

The truth is no reconciliation is possible. It is idle to talk of fusion as the two discordant views are founded upon conceptions of religion that are radically and spiritually incongruous.

The problem is interesting from many points of view, but for us, from none more than this, that it seems certain that in their main assertion the prophets were mistaken; for it is as unthinkable that Moses did not prescribe sacrifice in some form as it is unthinkable that the prophets did not mean what they say. Or - the sacrifice he prescribes they hold negligible. That is the only possible way out that is honest.

We are about to study a document which, it will be the contention of this thesis, essentially and actually Mosaic in its origin, and there stands therein a provision for the erection of altars on which the people were bidden to offer sacrifice - of burnt offerings and peace offerings, of oxen and of sheep. - This document did not originate "after Prophecy had spoken", in the sense in which W. Robertson Smith denominates the era of the emergence of the ritual sys-

tem, but long centuries before. But there was no ancient religion known to man that did not enjoin sacrifice. It is as old as the world and went far back beyond Moses. (Wellh. op. cit. p. 53.) The human desire to gratify the emotions of reverence and gratitude to the Divine has never failed in the history of man to find some tangible expression; and whether the negative of the prophets is to be held absolute, or qualified as it generally is, they would not have dared to use the language they do unless Moses had restricted the ritual to the barest - but the necessary - minimum, ordained as a symbolic expression of the emotions of the worshipper, who would give to God - of the things that he had. As he thus leaves it, the whole worship is spontaneous and natural. It has hardly the character of a positive legislation and its distinction from other religions lies most in the different conception of Yahweh[@] which the true worshipper should bear in his heart. And there is a world of difference between that and all that was comprised and implied in the Torah of the priests. [@] ('OTJC' .p. 346.)

In the providence of God, however, the Law, even as conceived by the priests, had a positive and constructive function which meant great things both for the nation and the future. Of these only the simple statement can be made but they are imposing enough.

In the first place, it was the means of the preservation of the Jewish nationality. The change in the Jewish mind from the pre-exilic all too

facile tendency to mingle with heathen peoples to its later characteristic "hatred of the human race" was the unmistakable effect of the Law and prevented its absorption among the surrounding nations. ('OTJC'.p.279. Edghill.Art.'Law (OT)'.Hast.DB.1 Vol.Robinson.p.206ff.)

In the second place, it preserved the Jewish religion by the weighty emphasis it laid on their national peculiarities and their distinctive creed. (Edghill.ib. Oest.and Box.'Rel.& Worsh.of Syn. pp.2-9.)

In the third place, it originated the idea of the Church and its organisation under Ezra and Nehemiah was to influence many religious and most Christian communities in after times. (Oest.and Box as above. Haller.'SAT'.II.3.pp.181-185.)

In the fourth place, it gave rise to the formation of the Canon of Scripture. That fascinating development cannot be traced here, though it followed in successive order of 'Law', 'Prophets', and 'Writings', beginning with the "little book" of Deuteronomy, and becoming, in its later fulness and grandeur the "BOOK" par excellence. (Haller.'SAT'II.3.p.XIV.'OTJC'.P.171ff. Wellh.op.cit.p.402ff.) Within this lies "the devotional Literature of the world" (Welch.op.cit.p.1.) and, were it for nothing else, the world's debt would be incalculable.

CHAPTER I.

CONTENTS: A. REVISED RENDERING.
 B. SUBJECT MATTER.
 C. ARRANGEMENT.

BIBLIOGRAPHY:-

The works of Rothstein, Robertson Smith, Benzinger,
 Cornill, Kent, Gressmann, Welch, already mentioned.

Baentsch: "Das Bundesbuch".
 " " "Hand-Kommentar zum A. Testament". I. 2.
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 Swete: "Septuagint".
 Moffatt: "Translation of OT."
 Etc.

And McVale Commentary on Exodus in Westminster Bible Series

A. REVISED RENDERING.

I submit here a revised rendering of the document to be studied, not only because it is a practical necessity to have the full content before us, but because research has enabled me, as I think, to view some portions of the legislation from a more correct angle, and on that much depends. The translation therefore embodies the results of a deliberate linguistic consideration of every verse of the Hebrew and of comparison with the latest important translation in English (Moffatt's), with Segond's in French, as well as with those of more ancient date - the Vulgate, Luther's, and others. A marginal caption

marks every regulation. I have also underlined for further reference the grammatical irregularities in number and person which have played so vital a part in the substantive criticism of the document.

"THE BOOK OF THE COVENANT".

Ex.20:22. Introduction:

Then said Yahweh to Moses: Thus shalt thou say to the Israelites, Ye have seen that from heaven I spake with you.

SACRED LAW. (23-26.)

23.

No Idolatry. Ye shall make nothing (to rank) with me. Gods of silver and gods of gold ye shall not make for yourselves.

Altars and Sacrifices.

24. An altar of earth thou shalt make to me, and thou shalt sacrifice on it thy burnt offerings and thy recompense offerings, thy sheep and thine oxen.

In all the place where I will cause my name to be remembered, I will come to thee and I will bless thee.

25. And if thou wilt make to me an altar of stones, thou shalt not build with dressed stones, for shouldst thou wield a tool over them, then thou hast polluted them.

26. Neither shalt thou go up by steps upon my altar that thy nakedness be not exposed upon it.

CIVIL LAW. (21:1 - 22:16.) N.B. {Verse-numbering as in Hebrew throughout.

Introduction.

1. These are the decisions which thou shalt set before them.

Manumission of
Slaves.

2. If thou buy a Hebrew slave, six years shall he serve; and in the seventh he shall go out free, without ransom.

3. If he came in single, single shall he go out; if he is married, then his wife shall go out with him.

4. If his master have given him a wife and she have borne him sons or daughters, the wife and her children belong to her master, and he shall go out alone.

5. But if the slave declare: I love my master, my wife, and my children; I will
 6. not go free: then his master shall bring him before God; and he shall bring him up to the door or to the door-post; and his master shall bore his ear with the awl: then he shall be slave to him in perpetuity.
- Manumission and Treat -
ment of
Slave-wife.
7. If a man sell his daughter to be a slave-wife, she shall not be freed as
 8. the ~~(other)~~ slaves are freed. If she is not acceptable to her master when he has designated her for himself, then he must let her be bought back; he is under a distinct disability to sell her to foreign people, as he has
 9. broken faith with her. But if he designate her for his son, he must do with her according to the use and
 10. wont for daughters. If he take him another, the first's flesh-ration, clothes, and conjugal rights he shall
 11. not reduce. If he do not these three things to her, she shall go out gratis without ransom.
- Fatal as-
sault.
12. He who deals a man a mortal blow shall without fail be put to death.
- Homicide.
13. But if he did not lie in wait, and the opportunity came by an act of God to his hand, I will appoint thee a place whither he may flee.
- Murder.
14. If, however, a man come upon his comrade wilfully, to kill him with craft, from the presence of my altar shalt thou take him for execution.
- Assault
on Parents.
15. He who deals his father or mother a blow shall without fail be put to death.
- Kidnapping.
16. He who kidnaps a man, whether he sell him or the man be found in his possession, shall without fail be put to death.
- Irrever-
ence to par-
ents.
17. He who curses his father and his mother shall without fail be put to death.
- Personal
bodily In-
jury.
18. If two men are quarrelling and one strike his comrade with a stone or a fist, not so that he die, but is
 19. laid up in bed; if he can get up and go about outside upon his staff, then the assailant shall be unpunished; but he shall pay for the man's loss of time and shall get him thoroughly cured.

- Master's assault on Slaves: (Fatal.)
20. If a man beat his slave, or his slave-wife, with a stick and he dies under his hand, he shall without fail suffer
21. penalty. Howbeit, if he survive a day or two, he shall not suffer penalty, for he was money to him.
- Injury to pregnant Woman & Talio.
22. If men are fighting and strike a pregnant woman so that she miscarries, but with no permanent harm, he (one?) shall without fail be fined as the woman's husband shall impose upon him, but he shall pay after arbitration.
23. But if serious harm is ever done, then thou shalt give life for
24. life; eye for eye, tooth for tooth, hand for hand, foot for foot, burn for
25. burn; wound for wound, blow for blow.
- Master's assault on Slaves
26. If a man knocks out the eye of his slave, or his slave-wife, he shall set
27. him free for the sake of his eye; and if he knocks out the tooth of his slave, or his slave-wife, he shall set him free for the sake of his tooth.
- Mortal injury to human life by Live-stock.
28. If an ox gore man or woman to death, the ox shall without fail be stoned and it shall not be used for food; but the owner of the ox shall be ex-
29. empt. But if the ox was formerly addicted to goring and the owner was advised of it, and ~~did not~~ ~~confine~~ it and ~~yet~~ it killed man or woman; then the ox shall be stoned and its owner
30. also shall be put to death. If, however, a ransom be set on him, then he shall pay as a forfeit for his life whatever sum has been set on him.
31. Whether it be a son or a daughter it gores, according to this same sentence
32. shall it be done to him. If it be a slave or a slave-wife the ox gore, he shall pay to the master thirty shekels of silver, and the ox shall be stoned.
- Injury to Live-stock by pit-owner's carelessness.
33. If a man open up a pit, or if a man dig a pit and does not cover it over, and an ox or an ass fall into it, the
34. owner of the pit shall make it good; the price shall he render to the owner, but the carcase shall be his.
- Injury to Live-stock by Live-stock.
35. If one man's ox butt another man's ox and it dies, they shall sell the live ox and halve its price and they

36. shall halve the carcase as well. Or if it were known that the ox was addicted to goring aforetime and its owner did not confine it, without fail he shall make good, ox for ox, but the carcase shall be his.
- Theft of Live-stock. 37. If a man steals an ox or a sheep and slaughters it or sells it, with five head of large cattle shall he make good each ox, and with four head of small each sheep...
- Ch.22 :1. (If the cattle-thief is caught breaking in by night and is fatally assaulted, there is no blood-guilt to the assailant. If it was after dawn, he has blood-guilt.)..make good he shall without fail. If he has nothing, he shall be sold for what he has stolen. If the stolen beast - ox, ass, or sheep - is actually found in his possession alive, he shall make good with but two.
- (Guilt or otherwise of deadly resistance to Thief.)
- Injury to adjoining property by Live-stock. 4. If a man cause a field or a vineyard to be destroyed, setting loose his beast to graze in the field of another, with the best of his own field and with the best of his vineyard shall he make good.
- Incendiarism. 5. If fire break out, catching in a thorn hedge, and a shock of corn or the standing corn or the field itself be burnt up, the incendiary shall without fail, make good.
- Deposit of Money and Valuables. 6. If a man hand over into another person's keeping money or valuables and these are stolen from the man's house the thief, if he is caught, shall make good with double. If the thief is not caught, the householder shall be brought to God to ascertain whether he has not laid hand on the other's property. Whatever the breach of trust, whether concerning ox, ass, sheep, mantle - any sort of thing lost about which a man says: This it is (I claim) - the transaction of both parties shall come before God. He whom God declares guilty shall make good to the other with double.
- Deposit of Live-stock. 9. If a man hands over to another person's keeping ass or ox or sheep or any beast and it die or be maimed or 10. raided and there be no witness, there shall be between the two of them an oath of Yahweh that the one has not laid his hand on the other's proper-

- ty. Its owner shall accept that; and
11. the other shall not make good, If, however, it was actually stolen from him,
12. he shall make good to its owner. If, again, it be torn in pieces, let him bring it so in evidence. The torn animal he shall not make good.
- Injury to 13. If a man borrow an animal from another borrowed and it be maimed or killed in the absence of the owner, he shall without Live-stock. 14. fail make it good, If the owner was present he shall not make it good. Since it was hired, it came for its hire.
- Seduction. 15. If a man solicit an unbetrothed virgin and have intercourse with her, he shall without fail pay her the marriage-price
16. as his wife. If her father absolutely refuse to give her to him, he shall still pay over the usual marriage-price of a virgin.

SACRED, CIVIL, MORAL AND
HUMANITARIAN LAW. (22:17 - 23:19.)

- Sorcery. 17. Thou shalt not let a sorceress live.
- Bestiality 18. Everyone who has intercourse with a beast shall without fail be put to death.
- Worship 19. He who sacrifices to the gods shall be of other under the death-ban - unless it is to gods. Yahweh alone.
- Treatment 20. An alien thou shalt not overreach; nei- of Aliens, ther shalt thou oppress him; for aliens
- Widows, Or- 21. were you yourselves in the land of Eg- phans & Poor. ypt. No widow and no orphan shall ye
22. afflict. If thou dost afflict him, and if he do cry to me, I will without fail
23. hear his cry: my anger shall burn and I will slay you with the sword so that your wives shall be widows and your sons orphans.
- Interest. 24. If thou lend money to my people - to the poor beside thee - thou shalt not be to him like a money-lender. Ye shall not impose upon him interest.
- Taking in 25. If thou must take in pawn thy comrade's Pawn. mantle, by sun-down shalt thou restore
26. it to him; for it is his only covering - thus a wrapping for his nakedness! - what else can he sleep in? and it shall be if he cry to me that I shall hear: for gracious am I.
- Irrever- 27. Thou shalt not blaspheme God: nor shalt ence.

- thou curse a chief among thy people.
- Punctuality 28. Thy offered 'fulness' and 'flow' thou shalt not be behind with. The first-born of thy sons thou shalt give to me.
- ings. First-born. First-29. So shalt thou do with thy ox and thy lings. sheep. Seven days it shall be with its dam: on the eighth day thou shalt give it to me.
- Holiness. 30. And holy people shall ye be to me; and ~~fish~~ flesh of thing torn in the field, ye shall not eat: to the dogs shall ye throw that.
- Rumour-
Chap.23: 1. Thou shalt not raise a baseless rumour. raising. Do not side with a wicked man in being
- Witness- 2. a malicious witness. Thou shalt not be bearing. a follower of the crowd in (such) evil-doing; (thus) thou shalt not bear witness in an action turning aside after the crowd to distort justice. Neither to the poor man in his plea shalt thou be partial.
- Salving of 4. If thou come upon thine enemy's ox or Live-stock. his ass wandered, thou shalt without fail get it returned to him. If thou seest the ass of a man who hates thee collapsed under its burden, thou shalt refrain from leaving it to him and without fail free it with him.
- Perversion of 6. Thou shalt not distort the rights of Poors Right. thy poor in his plea.
- False 7. From any false charge thou shalt keep Charge, and thyself far. The innocent man and the Unjust Doom. man in the right thou shalt not do away with; for I do not acquit the guilty.
- Bribery. 8. And a bribe thou shalt not accept; for a bribe blinds men whose eyes are wide open, and it perverts the pleas of
- Alien's 9. those in the right. An alien thou Rights in an shall not suppress; as ye should know Action. the feelings of the alien; for ye were aliens in the land of Egypt.
- The Fallow 10. And six years shalt thou sow thy land Year. 11. and gather in its produce: but the seventh thou shalt let it lie fallow and leave it alone so that the poor ones of thy people may have something to eat: and what they leave the wild-beast may devour. So shalt thou do with thy vineyard and with thy olive-yard.
- Seventh Day 12. Six days shalt thou do thy work but Rest. on the seventh day thou shalt cease, so that thine ox and thine ass may

- rest and the son of thy slave-wife and the alien may take breath.
- No Commemor- 13. And in all that I have commanded you ation of oth- take ye good heed : and (particularly) ~~the~~ er gods ~~name of other gods~~ shall ye not commem- but orate. That shall not be heard upon thy of Yahweh.. 14. lips; (but) on three occasions thou shalt hold festival to me in the year.
- Three An- 15. The festival of unleavened bread-stuffs nual Cele- shalt thou observe: seven days thou brations. shalt eat unleavened fare as I command- ed thee, at the fixed time, the month A- bib, for in it thou didst go out from Egypt. And they shall not appear in my Presence empty-handed.
16. And the festival of harvest, the first-ripe-things of thy labour which thou sowest in the field. And the festival of ingathering, when the year goes out, when thou gatherest thy labour from the field.
- All males to 17. Three times in the year shall all thy be present. male population appear in the presence of the Lord Yahweh.
- No leaven 18. Thou shalt not sacrifice with what is with anml.offg. leavened the blood of my sacrifice. No fat kept And the fat of my festival shall not over. remain over night until morning.
- Destination 19. The first and finest fruits of thy of first & land thou shalt bring to the house of finest fruits Yahweh, thy God.
- Milk mis- 20. Thou shalt not boil a kid in the milk use. of its dam.

ADMONITORY. (20-23).

20.

Behold, I am sending an Angel before thee to keep thee in the way, and to bring thee to the place which I have

21. prepared. Have a care before Him and obey his voice. Do not defy Him (for He will not pardon your offences) for my

22. spirit is in Him. For if thou shalt without fail obey his voice and do all that I speak, then I shall be an enemy to thy enemies and a foe to thy foes.

23. For my Angel shall go before thee and bring thee to the Amorite and the Hit- tite and the Perizzite and the Canaan- ite, the Hivite and the Jebusite; that I may annihilate him.

24. Thou shalt not worship their gods nor shalt thou serve them, nor shalt thou do in accordance with their handiworks; but thou shalt demolish them without fail thou shalt without fail shatter

25. their sacred pillars. And ye shall serve Yahweh, your God; and He shall bless thy bread and thy waters; and I will
26. remove sickness from thy midst; there shall be no woman miscarrying or barren in thy land. The number of thy years I shall make full.
27. My Panic will I send out in front of thee and put to rout all the peoples among whom thou comest; and I will make all thine enemies fugitives before thee.
28. And I will send the hornet in front of thee and it shall drive out the Hivite, The Canaanite, and the Hittite from before thee.
29. I will not drive them out from before thee in one year, lest the land should become desolate and the wild beasts become numerous to thy hurt.
30. Little by little will I drive them out from before thee, until thou have offspring and inherit the land.
31. And I will fix thy border from the Reed-sea to the Philistian sea, and from the desert to the River; for I will give into your hands the inhabitants of the land and thou shalt drive them out from before thee.
32. Thou shalt not make with them or with
33. their gods any covenant. They shall not dwell in thy land lest they make thee sin against me: for if thou serve their gods, then it will be to thee a snare.

The mere process of translating makes it evident that the document does not lie before us at first hand. There can be no doubt that both oral and scribal transmission have played their part in reducing it to its present condition. Just how far these have affected it must always be a problem and will receive due consideration in the sequel.

B. SUBJECT MATTER.

The captions have played the indispensable part of stating in brief the subject-matter in the order in which it now stands. From these it will have been seen that at least three different kinds of law are represented in the code, namely, Sacred, Moral (and Humanitarian), and Civil. There is, however, such a remarkable lack of ordered arrangement about the whole material that there is no hope of dealing with it effectively, not even indeed of attaining a proper appreciation of the subject-matter itself, before some sort of classification is attempted. It will be well therefore, at once to class the contents together, as far as that is possible, under the three heads specified. This will not only facilitate treatment, but will bring out one feature of the code which is not without importance to a correct view of it, and which, so far as I am aware, has not hitherto been remarked. The following is such a

CLASSIFICATION.A. SACRED LAW.

I. WORSHIP OF OTHER GODS.

1. Nothing beside Yahweh: no images. 20:23.
2. Sacrifice to other gods forbidden. 22:19.
3. No commemoration of other gods. 23:13.

II. ALTARS.

1. Of earth. 20:24a.
2. Of stone, but undressed. 20:25.
3. Both without steps. 20:26.

III. OFFERINGS.

1. Two kinds: burnt offgs. & recompense. 20:24b.
2. Two kinds of sacrificial victims - sheep, oxen. "
3. Further - "fulness" and "flow". 22:28a.
4. Finest and best to be brought to House of Yahweh. 23:19a.

OFFERINGS: (cont.)

5. First-born. 22:28b.

6. Firstlings. 22:29.

7. No leaven with offerings. 23:18.

8. No fat to be kept over. " "

IV. SPHERE OF WORSHIP AND BLESSING. 20:24b.

V. REVERENCE.

1. To Parents. 21:17.

2. To God. 22:27a.

3. To Rulers. 22:27b.

VI. SORCERY. No sorceress to live. 22:17.

VII. CLEAN AND UNCLEAN.

1. All to be holy. 22:30a.

2. Torn flesh to be cast to the dogs. 22:30b.

VIII.

FESTIVALS.

All males to attend on three occasions annually - 23:14,17.

1. Unleavened bread-stuffs. 23:15.

2. Harvest. 23:16a.

3. Ingathering. 23:16b.

IX. MISUSE OF MILK. 23:19b.

B. MORAL AND HUMANITARIAN LAW.

I. Seduction. 22:15,16.

II. Bestiality. 22:18.

III. Treatment of the alien, widows and orphans, & the poor. 22:20-23.

IV. Rumour raising. 23:1a.

V. The Fallow Year. 23:10,11.

VI. Seventh day rest. 23:12.

C. CIVIL LAW.

I. SLAVES.

1. Manumission of the slave: a) single; b) married. 21:2-6.

2. Manumission and treatment of owner's slave-wife. 21:7-11.

3. Assault on slave: a) immediately fatal, 21:20.

b) not immediately so, 21:21.

c) with permanent disfigurement. 21:26,27.

II. ASSAULT (OTHER CLASSES).

1. Fatal assault. 21:12.

2. Homicide. 21:13.

3. Murder. 21:14.

4. Assault on Parents. 21:15.

5. Assault with temporary injury. 21:18,19.

Criminal

ASSAULT. (cont.)

- 6. Assault on pregnant woman. 21:22.
- 7. Assault for assault. (Talio). 21:23-25.
- 8. Kidnapping. (Assault on personal liberty).
21:16.

III. LIVE-STOCK.

- 1. Fatal attack (assault) by live-stock.
21:28-32.
- 2. Fatal assault on cattle-thief caught in the
act. 22:1, 2a.
- 3. Injury to live-stock by human carelessness.
21:33, 34.
- 4. Injury to live-stock by live-stock. 21:35,
36.
- 5. Theft of live-stock. 21:37; 22:2b, 3.
- 6. Injury to property by live-stock. 22:4.
- 7. Deposit of live-stock. 22:9-12.
- 8. Injury to borrowed live-stock. 22:13, 14.
- 9. Salving of live-stock. 23:4, 5.

IV. INCENDIARISM. Among grain in field. 22:5.

V. MONEY.

- 1. Deposit of money and valuables. 22:6-8.
- 2. Exaction of interest. 22:24.

VI. PLEDGING OF GOODS. 22:25, 26.

VII. JUDICIAL RECTITUDE.

- 1. Witness-bearing. 23:1b-3.
- 2. Rights of poor. 23:6.
- 3. False charge. 23:7a.
- 4. Unjust condemnation. 23:7b.
- 5. Bribery. 23:8.
- 6. Alien's rights to be maintained. 23:9.

(EXHORTATION TO OBEDIENCE.)

The principle of classification in the above is that of the subject dealt with, and it will require further remark in connection with the question of arrangement.

Enumeration shows that the Code consists of some sixty two different regulations, twenty six of which deal with religious matters; six, with moral and humanitarian; and thirty with civil af-

fairs. Thus the civil predominate ,but perhaps more in volume than in number, it should be noted. Of these again, the largest number are concerned with the subject of live-stock. This hitherto unnoticed fact has a genuine importance and will be treated more fully when the general characteristics of the code come under review.

There are nine religious offences including four connected with divine worship and reverence; one with illicit worship; two with sacrifice; two with reverence to parents and rulers; and one, always included under this category, with a problematical reference to milk.

Four offences are specified against morality and humaneness, namely: seduction, bestiality, maltreatment of the dependent, and rumour-raising.

Twenty nine civil offences embrace: thirteen different forms of assault; four regarding injury to or by live-stock; six against judicial rectitude; two concerning default with deposits; and one anent each of the following: refusal to salve live-stock, incendiarism, exacting interest, and making hardship in pledging.

Nine different kinds of penalty are attached to the offences-1) death, (ten cases); 2) talio, (far from universal); 3) compensation in kind, (six cases); 4) money compensation, (three cases); 5) loss of slave by liberation, (two cases); 6) money satisfaction, or ransom, (one case); 7) fine, (one case); 8)

asylum, (one case); 9) payment of marriage-price, (one case); and 10) a penalty unspecified, (21:20.); doubtless death; (see Sam. text).

The death-penalty was assigned to seven civil, three religious, and one moral crime. Under the first head are ranged: fatal assault, murder, assault on parents, kidnapping, failure to confine fatally goring ox after warning, fatally assaulting cattle-thief after dawn. In addition the death-penalty is imposed upon an animal - not at all an uncommon thing in ancient times. (Cf. Cook. 'Laws of Moses & . . . Hammurabi' p. 252n.) Under the second head are the cursing of parents, sorcery, and sacrificing to other gods than Yahweh. Under the third stands bestiality.

With regard to talio it should be noted that while admittedly general among ancient peoples, it is not, as some writers seem to imply, a general and characteristic feature of all Hebrew law. It finds here a fuller expression, a larger number of details being given, than in any other code in Scripture, but even here it is confined to the one matter of assault, though up to mortal.

While the subject-matter is under review, the presence in the document of a distinctive and peculiar section ought to be noted, namely, that which deals with the treatment and liberation of the "slave-wife" (21:7-11.). Dillmann ('Ex. und Lv.' p. 227f.) and Baentsch ('Bundsb.' pp. 65ff.) appear to me altogether justified in their interpretation of לְאִשָּׁתוֹ , certainly in this document and probably elsewhere, in the sense

of Beischläferin or Keksweib, and though they do not mention the point, their contention seems to be fully corroborated by the plea of the Sabbath Law, "that the son of thy hand-maid ... may take breath". The significance contended for makes that reference instinct with life and warmth, having a direct bearing upon the immediate circumstances and conditions under legislation, and I have therefore ventured to translate the word as "slave-wife". Otherwise, in the latter passage it is but a curiously vague expression and here, as in all similar ancient legislation, it would be impossible to find a motive for a distinct enactment of such importance founded on no stronger a basis than mere difference of sex among people in the lowly condition of slavery. The section, then, has a distinction of its own and is exclusive to this code. (See note at end of chap.)

It is in reference to these laws that we read in chap. 24:3, "And Moses came and told the people all the words of the Lord, and all the judgments," and in 24:7, "and he took the Book of the Covenant and read in the hearing of all the people."

There is no breach of continuity in the narrative at all, chap. 24 actually beginning with a subjectless verb,

וַיִּקְרָא; and for its subject we have to go as far back as chap. 20:22, i.e., to the very beginning of the document. It is thus apparent - and that even if, as is held (Baentsch, 'Hand-Kom. '), 24:3 is the immediate continuation of 23:33 - that the code which lies between was considered as a unity; that it was composed of 'words'

and 'judgments'; and that "The Book of the Covenant" was its title.

With all this criticism has, in the main, agreed; with the exception that Baentsch emphatically denies that there is anything whatever in the document to justify the title. ('Bundesb,' pp. 72-4) The word 'covenant', he affirms, is not even mentioned ('mit keiner Silbe erwähnt!'); the covenant-god is always Yahweh and that name never occurs; (it really occurs four times, but he queries them all:) a covenant requires two contracting parties prepared for interchange of offices, but no motive of that kind appears.

Among other things, it may be rejoined, this is to reject entirely the parenthetic conclusion as a component part of the document. If that is not rejected there is no force in his argument. Now, apart from the unconvincing impression which the development of his contention makes upon the reader, Baentsch fails to observe that he is inconsistent with himself, for later, in a searching and very critical scrutiny of the Conclusion, he finds 23:20-22, among other small portions, to be genuine and original, and these verses, even he would allow, are fully sufficient to establish the covenant idea of two parties with mutual obligations. [ⓐ]

It is especially worthy of note that the document is referred to as a book which Moses read in the hearing of the people, implying that in his

ⓐ

'Bb.' will hereafter be adopted as the symbol for the title, "Book of the Covenant".

own time the laws were reduced to writing. The discussion of this question need not yet be entered upon, but here it may be observed that on the question of ascribing the production of a written document to Moses both sources J and E are in agreement, and this may be taken in evidence that both J and E were acquainted with a written source of an age previous to their own and which was at least traditionally ascribed to Moses.

(Carp. & Harf. 'Comp. of Hex.' p. 208.)

The description of the subject-matter in 24:3 as 'the words' and 'the judgments' commands interest. 'The words' as a general term is applicable to all that the people are stated to have heard read to them by Moses and might well have stood, therefore, by itself as inclusive of the whole body of laws.

The people, however, are said in one instance to have undertaken to do all the words that Yahweh had spoken.

The term is, moreover, found in use elsewhere (34:27) describing another, much smaller, collection of laws that bear striking resemblance to a certain portion of these before us. In both cases the injunctions are direct and simple and it is to be implied that the term very early assumed the specialised sense of 'command' as distinct from its ordinary meaning. מצוות, indeed, is now one of the technical terms of OT law and its characteristics demand attention.

In form the מצוות are commands and prohibitions succinctly expressed: they are mostly in the second person; and mostly in the singular num-

ber. Their matter concerns religion and the cultus, but by no means exclusively as this code alone proves. Of this nature are the portions, 20:23-26 (v. Translatn. p. 31. supra); 22:17-23; 22:27-23:3; 23:6-33. Thus the only remaining portions are the long section 21:1-22:16 and the two short ones, 22:24-26; and 23:4, 5., and the interesting fact is brought to light that in this document the injunctions in $\text{D}^{\prime}\text{7}\text{7}$ form are to those in $\text{D}^{\prime}\text{7}\text{7}$ form in the proportion of fifty verses to fifty eight, a surprising finding considering the common impression that the $\text{D}^{\prime}\text{7}\text{7}$ are almost negligible in quantity in comparison with the other. In all, the commands in this form number thirty five (they may be slightly more if some in which a copulative occurs be counted as two); and this would actually give the predominance to the $\text{D}^{\prime}\text{7}\text{7}$. The explanation, however, is simply that to every statement made with regard to the characteristics of the $\text{D}^{\prime}\text{7}\text{7}$ there are exceptions.

First, the $\text{D}^{\prime}\text{7}\text{7}$ are not all in the singular. Baentsch, carrying a principle enunciated by Wellhausen to its extreme, will allow no plurals; but I shall seek to prove later that the facts are against this contention. Second, the participle is used instead of the second person in a number of instances (21:17; &c. 22:19). Briggs would differentiate these cases as presenting the proper type of 'statute' ('High. Crit. of Hex.' p. 242ff.) rather than of 'word'; but the distinction seems too fine. Third, the moral and humanitarian laws are all expressed in this form. Fourth, and most

strikingly, one entire section of the undoubted *תקנות*, namely, those concerned with judicial rectitude, are expressed in a form indistinguishable from that of *דברי*.

Finally, while dealing with exceptions, it is to be observed that the common significance of 'words' cannot be eliminated from the term even in this code. Otherwise the Conclusion would be ruled out, but Briggs expresses what must appear to most unprejudiced students of the code a just inference when he states that the *דברי* must include 20:23-26 and 23:20-33.

Baentsch has well educes their function when, in effect, he affirms that the *דברי* are unqualified expressions of the will of Yahweh; that they are of general validity; and that they are obligatory on all ('Bundsb.' p.34); and the distinction he draws between 'fas' as applied to them and 'jus' as applied to the *תקנות*, (ib. p.95) may be accepted in its general terms though he is inclined, as will be seen later, to press the distinction too far. At the same time he points out that the *דברי* of the Decalogue (Ex.20) differ very manifestly in their much more markedly abstract nature from those of *תקנות* with their vivid and concrete content.

Rothstein notes what may be called the inner meaning of the imperative in these injunctions. They deal, he says with offences whose importance is not to be differently judged according to external circumstances, nor with such things as are in any way

dependent on human judgment at all. God stands over against the conscience of the individual Israelite and prescribes what is to be done or left undone. To Him is reserved the punishment of the transgressor who is without conscience, for in most cases to Him alone is the transgression known.

The $\text{וְכִי־יִשְׁכַּח־אִישׁ־מִצֵּדֹתָיו}$, on the other hand, are clearly distinct in form and generally in matter from the $\text{וְכִי־יִשְׁכַּח־אִישׁ־מִצֵּדֹתָיו}$. In statement they follow the arrangement adopted in what is known as 'case-law'. The principal or general case is first specified and is mostly introduced by כִּי , i.e., 'when', or better, 'if'; and then follow modifications of the general case, introduced by אֲשֶׁר . The hypothetical form is natural to the circumstances and shows no dependence, being common to law-systems of all times - in the Roman 'Twelve Tables', the German Folk-Law, and most modern statute-books.

In all there are twenty four principal cases specified (the repetition of כִּי in 21:23 may be taken as a very acceptable instance of accuracy and consistence?); and twenty seven secondary cases (with אֲשֶׁר). But again it has to be noted that there are exceptions to all these general rules. The absence of exceptions applies only perhaps to the matter dealt with, which is civil law in all cases. Otherwise, they are numerous enough.

In the first place, the principal case is introduced by the participle on five occasions: (21:2, 15, 16, 17; 22:18). Second, the principal case is actually introduced by אֲשֶׁר on two occasions: (22:24 & 25).

Third, the secondary case is introduced unexpectedly by וְכִּי in one instance (23:5); - unless it can be construed as a general case. Fourth, the secondary case is introduced by וְאִם (which BDB, states may be rendered 'or if') on two occasions, (21:31 & 36). Fifth, the secondary is introduced by וְאִם (rel.) once, (21:13). Finally it needs to be observed that not every sentence beginning with וְאִם is necessarily the component part of a וְאִם...וְכִּי ; certainly not in 20:25, (alternative altar); and most probably not in 22:24 & 25, (mere variation in statement of command?). Cf. 23:4, 5.

If, as has been seen, the וְכִּי are universally and eternally valid pronouncements of the divine will, the וְאִם apply only to certain cases and conditions specified. If the motive appealed to by the former is conscience and the fear of God, in the latter it is doubtless the apprehension of punishment in case of transgression. From the form of address it may be inferred that they were in the first instance intended for the instruction of the people, though destined also for the guidance of the 'elders' and all who should subsequently administer justice.

No student of the term וְאִם and its applications can fail to be indebted to Bâ's exhaustive discussion of its OT. sense. His conclusion has already been given (p. 7, sup.) and the temptation to present a summary must be withstood; but even a summary would reveal indubitable traces of an over-concern to prove an absolute 'sui generis' distinctiveness. It lay upon him, he says, to prove that the word

bears a purely juridical sense and he claims to have proved it abundantly. He is undoubtedly entitled to satisfaction, but as undoubtedly, he proves too much. He all but proves that there is no religious law in OT. and that religious law is not there traceable in the last resort to Yahweh. He goes so far as to state "das gesammte Gesetz zum grössten Theile rechtliche und cultische Satzungen enthält, so dass der Name nach der pars pro toto genannten Redefigur oder a potiori angewandt ist." Now there can be no doubt that the law contains for the most part judicial and cultural law. But what is the meaning of 'cultisch'? Can he mean us to read it as 'ritual' or 'ceremonial'? It is, of course, much more than that; it is the whole religious content of the system that is implied in such a word. And how many מִשְׁפָּטִים may not be classed under that head! But the statement is exaggerated beyond reason if we are to take what follows as its logical culmination. It is as much as to say that in a general way the word 'Mishpatim' is interchangeable as a title for OT. law with 'Torah' itself. The idea can only be rejected. Again he proves too much.

At the back of his elucidation of course, lies his conviction that these are all judicial decisions which were actually given in the course of the administration of justice among the people settled in the land for centuries, and this represents a view of the origination of Bb. which he was largely instrumental in establishing. Gray, for example, holds the



דְּבָרֵי יְהוָה to be "based on precedent", (Enc.Bib.2734); and Gressmann describes how the people would learn their religious laws at the hands of the priests and from the practice of the worship, ('SAT.II.1.p.232); but this view, involving as it does a very late date for Bb., is open, as will be seen, to serious question, notwithstanding that for long it has been accorded the general support of criticism.

The question has now to be considered whether the two classes in which admittedly certain distinctive features are observable, must be kept rigidly apart, or whether the little 'book' is to be treated as a unity. Responsible scholars represent the former contention. Baentsch's whole argument referred to seems to involve it and he is more explicit in his suggestion ('Bundsb.'p.38) that דְּבָרֵי יְהוָה was originally the sole title - and thus at first nothing but דְּבָרֵי יְהוָה - on his theory that injunctions regarding the things of every-day practical life preceded in the time of their origin injunctions of an ethical and abstract nature. He feels compelled, he says, to claim 24:3 for J. He holds that originally it spoke only of 'the words of Yahweh'. The redactor enlarged this with 'and the mishpatim' and so helped to confer upon the moral and religious commands of Bb. a special meaning which was originally confined to the Decalogue. (Cf. ib. p.119).

Moore, more definitely, (ART.'EX' Enc.Bib.1447) says it is not quite certain that 24:3 is the conclusion of 21+23; if 20:18-21 originally preceded 20:1-17, as is now generally believed, 24:3 would

naturally refer to the promulgation of the Decalogue; 'and all the mishpatim' would then be a redactional addition, and the result reached, presumably, that the דְּבָרֵי alone were to be found in Bb. "This view certainly appears somewhat strained", is the comment of W. Robertson Smith ('OTJC'.P.333), who further deprecates the effort to establish the exclusive extreme. Moore concludes that it is doubtful whether the author of the דְּבָרֵי is also the author of the דְּבָרֵי , and that a more probable hypothesis is that 21-23 is the result of a process of accretion.

Kent also ('Israel's Laws', &c. p.18) is of opinion that the remarkable unity in form and content of the דְּבָרֵי and the presence of a distinct superscription leaves little doubt that they once constituted an independent group by themselves and that they did not originally stand in the midst of the collection of ceremonial and humane laws which they divide into two unequal parts.

Finally Driver, ('Ex.' Camb. Bible, p.253) supports the idea of segregation. Commenting on 24:7 he remarks: "If, however, the view expressed (of the redactional origin of 'and the mishpatim') is correct, the 'book' will not have included the 'judgments'.

All such reasoning as the foregoing appears to me totally inadequate to the establishing of a complete separation of the component parts of Bb. at any period. They fail to take account of the real and inevitable nature of the mingling of apparent dis-

tinctions within the code. It is not to be explained by the mere compilation of different sources or documents. It goes much deeper than that, to the roots indeed, of the peculiar genius of the Hebrew people.

We have already had occasion to observe the difficulty, nay the impossibility of maintaining clear marches between the דְּבָרֵי and the מִשְׁפָּטֵי in all departments, whether in form, or in matter, or even in quantity! Baentsch himself is not unacquainted with the reason why the argument for complete segregation fails, and must fail. On more than one occasion he makes reference to the 'thin line' between the ethical and the religious, on the one hand, and between the legal and the religious on the other throughout OT. ('Bundsb. pp. 31, 33). He is compelled to emphasise the feature, probably 'against the grain', but he does it handsomely - because the facts are too much for him. Though he contends that on the whole the expression מִשְׁפָּטֵי or דְּבָרֵי can find application to the laws of Yahweh only in so far as they are of a legal nature, he has to admit that there are occasions where these are found to indicate the divine law in its totality "with the inclusion also of the ethical precepts" (p. 33). He does not elucidate the significance of these passages but what is their implication if not, as Dr. Kennedy has suggested, that in OT. there is no practical distinction between 'jus' and 'fas'? But that is substantially the whole problem with its solution conceded, for here lies a characteristic of Hebrew law which, if not unique, as some hold, is

at least incontrovertible, and its 'raison d'être' has been dealt with in the Introduction. (pp. 18ff. sup.)

The 'book' must be treated as a unity. Benzinger explains the situation well when he remarks (Enc. Bib. 2714) that Yahweh was the Creator of the Law. Such a divine utterance as he gave through his servants naturally becomes a law in accordance with which other cases of the same kind are afterwards decided. When viewed in this light the fact - to our modern ideas so surprising - that all violations of religious observance are looked upon as crimes against the law and as ranking in the same category with civil offences becomes intelligible.

Grossmann's appreciation of the same fact is perhaps even better expressed. ('SAT'. II. 1. p. 233f.) The mingling of ethical and ritual prescriptions, he says, is significant. It teaches that the ethical was rooted in the religious and grew from that root and claims no independence. Civil law possessed the same divine authority as the sacred in Israel and through their combination ethical motives were, in the Yahweh-religion, exalted as the universally prevailing standard. This was Israel's distinction and it assured for Israel's law-makers abiding recognition.

It is impossible to fix any line of demarcation between the two. They are fused in fact because they are fused in principle. The book must be treated as a unity.

It must be observed that in the subject-matter of Bb. the Decalogue, which has been frequently mentioned, is not to be included; for that has been claimed. There is no denying that it too from the earliest times bore the title of 'words' and consequently might have been included in the reference to the special significance of that term, (p.46 sup.). It may be regarded as included, however, for all students of this region of the Hexateuch can sympathise with W. Robertson Smith in his distraction over the riddle of what exactly these 'Ten Words' were. ('OTJC'. p.335.)

But that they are not the 'words' referred to in 24:3 is clear from the fact that Moses is reported to have told the people all 'the words and the judgments' (i.e. Bb.) whereas the people themselves had already heard the 'words' of the Decalogue. (Driver, 'Ex.' Camb. B. p.252). Moore points out that while 20-23 contains two distinct bodies of laws - the Decalogue and the Book of the Covenant - and these are not incompatible, nevertheless in the history of the law-giving no connection is established between them. (Art. 'Ex.' Enc. Bib. 1444). Baentsch, most clearly of all, ('Bundsb'. p. 1ff.) shows that 24:3 is by the context excluded from all reference to 20:1, and that neither in original J or E did any close association exist between the Decalogue, Ex. 20, and the collection 20:22-23:33.

Finally, the subject-matter is, in my opinion, to be held as embracing the much-discussed parenetic Conclusion. The pronouncement of criticism

on the point has, of course, been clearly and decidedly adverse. Baentsch, who may be taken as representative, practically dismisses the question in two sentences. "If," he says, "Bb. presupposes developed and settled conditions in the conquered land of Canaan, here the conquering of the land is, as yet, only in prospect and we find ourselves still in the wilderness." The Conclusion is thus a piece of purely 'post-eventum' prophecy or admonition. But this question must be further discussed in connection with the date. "If," he continues, ('Bundsb.' p. 54f.) "Bb. exhausts itself ('wurde es müde') preaching toleration and clemency on behalf of the alien, here the talk is all of extermination; and dwelling beside him is considered dangerous because of the temptations at hand to seduce into idolatry." The statement is a regrettable one. It could hardly be surpassed for ineptitude. Within Bb. consideration for the γ is enjoined with surprising and surpassing nobility of motive. In the Conclusion, on the other hand, he is not once mentioned and so there can be no possible contrast in the treatment meted out to him. There, the talk is not of peaceable in-comers at all, but of enemies who are national foemen.

Rothstein, who is in general a less severe critic, also, however, believes that the admonitions do not belong immediately to the law-book. Indeed, he says, it is difficult to determine whether they were already forthcoming when Bb. was inserted in-

to the unified historical narrative or whether they were not rather introduced by the person who effected the synthesis. ('Bundesb.' p.3.)

As against these views it will be contended later that the promulgation of Bb. preceded the settlement in Canaan. But here it may be observed that but few critics will deny that Bb. was taken more or less as a model for future codes, and especially by D. Now it seems to me that perhaps no part of Bb. is more fully assimilated and absorbed into D. than just this parenthetic conclusion. There, indeed, it is repeated and expanded (Dt. 7:12-24; chps. 27-30). This fact alone may be held to be conclusive. But it reappears in other codes as well. It stands in connection with J's decalogue (Ex. 34:11-13) which, reasons will be submitted for believing, is probably later in date than Bb. It reappears also in H., again in expanded form (Lv. 26:3-46). It is thus not only a fairly constant theme in connection with the successive codes, but gives the distinct impression of borrowing and development from Bb. as its source.

Finally from certain unquestioned statements within the code (20:24 & 21:13) it will be proved that the standpoint of anticipation is the same in the body of the 'book' and its conclusion; and again, common features of style as well as philological peculiarities, among which *אֲנִי ה' אֱלֹהֵי יִשְׂרָאֵל* (v. 31) is prominent, argue that the conclusion is of a piece with Bb. and, together with it, must be of a very early date.

C. ARRANGEMENT.

In the matter of arrangement the document leaves much to be desired. The debarim are in conspicuous disorder and even the mishpatim, so commonly held immune, are not free of this feature.

The first interruption in the order of the religious debarim occurs with the opening of ch.21, and nothing in the same vein is met with again until 21:17, if irreverence towards parents may be taken as a breach of sacred law after the analogy of the Decalogue and the principle, "die Verfluchung der Eltern steht auf einer Stufe mit der Gotteslästerung. Lv.24:16." (Baentsch, 'H-Kom.' p.193.) The next is in 22:17 which stands in isolation like v.19, and the continuous verses 27-30 close the chapter. Verse 13 in ch. 23 begins the remaining section, which concludes the legislation with v.19.

The first of the moral and humanitarian debarim, 22:18, is separated by a purely 'cult' precept from vv.20-23 which are all humane. The next, in 23:1a, is too general in character to be classed with laws on probity in witness-bearing. Finally, 23:4,5, constitute a very obvious misplacement standing as they do in the very midst of a little group of precepts which, debarim in form, are concerned purely with civil law and ought to have been claimed by Baentsch as mishpatim.

The debarim are thus found as follows (moral and humane in brackets):-

Ch.20:23-26. Ch.21:17. Ch.22:17,(18),19, (20-23),27-30. Ch.23: (1a,4,5,10-12), 13-19. Uncertain: 23:1b-3;6-9.

The contrast which the mishpatim present to this disorder is very decided. It has, indeed, been appreciated with enthusiasm, Baentsch, for example declaring that all the regulations show a fine systematic concatenation and a strikingly regular construction; while Rothstein, on this ground alone would almost claim for them a different authorship.

But Baentsch's classification of these, almost universally accepted, is illogical and inconsistent. They comprise, he says, I. Slave - Law: II. Regulations for the Protection of Human Life: III. Regulations for the Protection of Property. But if, as he is quick to point out, the daughter in 22:15, 16, is property, then, logically, the whole of Class I. should be placed under Class III., for much more are slaves property. (Cf. especially, 21:21.) But is it possible that the law-giver deliberately classed the case of the seduced daughter in its present position because she was her father's property? I, for one, cannot find in any corner of this legislation a trace of such a spirit, and proof sufficient is that he does not class even slaves under that head. This, then, appears to be an 'orphan' regulation.

Again, it is quite impossible, without violence, to include a law forbidding irreverence to parents (21:17) under the classification,

'Protection of Human Life'. He forthwith places it beside the other regulation regarding parents (21:15), which, while not in the least mending matters, introduces another and an extraneous principle of classification.

Disorder is also evident in the section 21:18-27. Baentsch gives Budde credit for pointing out that the four examples of personal injury were originally graded according to their seriousness. But that, if it ever was so, is not their order now, though the idea is a suggestive one. As the passage stands, however, it is very clear that 22-25, dealing with injury to the pregnant woman and talio, make a complete break in the logical and progressive treatment of the subject of slave-assault, which was being pursued in the following order - 1) immediately fatal; 2) not immediately so; 3) with permanent disfigurement. There is no reason forthcoming for the disorder.

Further, Baentsch, who has given this subject fuller consideration than any other critic, declares with regard to 21:1, 2a: "Sicher liegt aber (heir) eine Unterbrechung des organischen Zusammenhangs durch ein aus anderem Zusammenhange des Bb. eingesprengtes Stück vor." ('Bundsb.' p. 42.) This, however, seems to me a total misconception of the passage; for in the first place, the organic connection is perfectly preserved; and in the second place, there is no other such connection in Bb. from which it could be introduced here. He seeks for one and not finding it, concludes it must

have fallen out. The subject, he says, is transferred from the thief to the guilt or otherwise of the person stolen from. In reality we have here only an amplification of the subject suggested in the passing, and it breaks the organic connection even less than the introduction of the *lex talionis* into relation with the case of the pregnant woman's injury. The subject is still theft and live-stock and the possible immediate consequences of their association. Now there is not a trace in all that Baentsch says on the passage that he has appreciated the simple but enlightening fact that the depredator in question is a cattle-thief. Certainly Rothstein has not, as is clear when he states: "Es liegt auf der Hand, dass 22:1,2, so weit es sich um das Objekt des Diebstahls handelt, ganz allgemeiner Natur ist." That is to read the passage with closed eyes as many seem to have done. It is not theft in general that is being discussed here but theft of live-stock. Only on the assumption of this error is Baentsch's use of the word 'organic' to be explained; but that connection is not broken. On the other hand it was as necessary to frame a law on this question as on any other, and its place seems as natural as possible, at the moment of dealing with the theft which provoked a crime in certain circumstances involving blood-guilt. The most noticeable thing about it is that it is introduced as a very sudden parenthesis, or as if with a 'nota bene' aside.

This survey makes it clear that while the substance of the laws remains, they have come to us in their present form, doubtless through many hands in which they have been subjected to numerous and varied modifications in expression and in arrangement. Yet it is natural to ask whether there was any governing principle, at the back of the mind that was responsible for the document, inspiring the order and exposition of his work. Various methods were open to him. He might have arranged the legislation according to subject; or according to the offence; or according to the penalty; and he might have classified the whole of it under either head. Now there are traces here and there that he had adopted some such single principle. The classification of no fewer than thirteen different forms of assault in a continuous passage (21:12-22:2a) is very striking and suggests that the original and governing principle was that of the Offence, all the various types of crime and the attached penalties being specified under that one head. But whether it be due to his own initiative or to the operations of others, it is not uniformly carried out. He may have abandoned it himself as impracticable and introduced in certain cases an additional classification under Subject, as in 21:1-11, where he has so much to say of slaves; or as in 20:23-26 and 23:13-19, wherein he incloses practically all the legislation regulating worship and its requirements. And that, it seems to me, is as much as we can gather from the document regarding its original

principle of classification, for such vestiges of a third, identity of Penalty, as 21:15-17, are inconsiderable and likely to be due to later modification.

In all probability then, the original principle was a dual one and it is on this principle that my own classification given above has been built up. It has the unquestionable advantage of bringing clearly, immediately, and in due proportion before the mind all the material of which the document is composed. It emphasises the most important aspects of that material, and shows at a glance the things that were of chief concern to this early community and the circumstances and conditions of life upon the regulation of which the legislation was directed. And this, after all, is at once the greatest and the proper service which any classification can render.

The most notable attempts at reconstruction of what may have been the original plan are those of Rothstein and the Pentadists. The former devoted his 'Bundesbuch' to the proving of Bb. nothing other than an expansion of the Decalogue. His attempt to range all the material of Bb. under the ten headings "Thou shalt not kill", "Thou shalt not steal," and so forth, is both interesting and suggestive. It has often been lightly esteemed, but it should not be summarily dismissed-by the pentadists at least. On the whole, it is astonishing how much he makes of his theory. He certainly takes liberties with the material of Bb. From the beginning he ignores his own distinction

between mishpatim and debarim, though it may be too much to say, with Baentsch, that he leaves not one stone of Bb. upon another. The proper condemnation of the theory seems to me to lie in the fact that the alleged correspondences are not real but artificial and require mechanical accommodation from both sides. (Cf. 22:15, 16 with Ex. 20:14). The principle adopted by Rothstein and as applied by him would be equally successful in finding in almost any modern body of laws an expansion of the Ten Commandments.

The theory of the Pentadists, that the whole collection of laws in Bb. is an assemblage of little groups of five (or double five), has received weighty support. It had its origin with G. Bertheau, in his 'Sieben Gruppen Mosaischer Geetze', 1840. These large groups, found in the three middle books of the Pentateuch, are divisible each into seven different series, and each series is discovered to contain ten laws. The principle has since been expanded and applied to Bb. by many eminent scholars including Ewald, Dillmann, Knobel and Briggs and is accorded a wide acceptance at the present time. Briggs, ('High. Crit. of Hex.' p. 211ff.) following the order of Bb. as it stands, divides the document into sixteen pentads. There are, however, no fewer than eight fragments of groups which he cannot place. These originally consisted also of five - a statement which we have to take on trust. This ingenious theory however, seems to find support in many parts of the Pentateuch and it would be unwise to ignore the part

played by the number ten (whole or half) in the mental economy of the ancient Israelite as may be inferred from numerous OT. references. The conclusion, moreover, to which Briggs leads up on p.232, even though supported by an accumulation of hypotheses, that in Bb. we may have an analogy with Deuteronomy, which code was written on stones in connection with the altar erected on Ebal after the entrance into the Holy Land and that thus in both cases the codes were written on stones as well as in books, is worthy of serious attention and, in view of the results of recent excavations in the East, must be considered as well within the bounds of probability. Notwithstanding the fact that this theory does not help us in the least in the martialling of the material of the code, and the justice of Moore's verdict (Enc. Bib. 1448) that the results hitherto attained by this method are not less widely divergent than those reached without such a criterion, the wisest attitude towards it on the whole may be that of suspended judgment.

Before passing from the subject of arrangement it may be remarked that the reasons given for the disorder have always been of a 'post eventum' nature - the intromissions of the compiler, the redactor, or others. Is there not a possibility that the real cause was 'ante eventum' and is to be looked for before and not after the promulgation of the laws? They may have been drawn up - the question has yet to be discussed - in anticipation of the settlement as is claim-

ed in the document itself, and notwithstanding possible acquaintance on his part with the law codes of other nations, they may have been issued in an order that was more or less tentative owing to the circumstances. If the future were mainly in view it would be very natural that strict regard would not be paid to mere classification. The content was the main thing and of far more importance than its arrangement, and as a complete body of law it would be perfectly serviceable as it stood. But when it came to be copied, efforts to introduce a better order would be sure to be attempted by different hands moved by minds with different ideas of the appropriate and this naturally ended in what was to be expected and what we see - confusion worse confounded. For it has to be remembered and there is good reason for believing that even in the earliest days the people treated the letter of the law, even though they knew it to be Yahweh's, with a considerable amount of liberty.

Note on the 'Slave-wife.'

אִשָּׁה עַבְדָּה : אִשָּׁה עַבְדָּה

The distinction is, in fact, constant and regular. A detailed examination of the story of Abraham, Sarah, and Hagar proves this. Hagar is Sarah's אִשָּׁה עַבְדָּה; she is Abraham's אִשָּׁה throughout. The אִשָּׁה is always married or about to be married to a master. Most interestingly is this brought out by the mere use of the word in the story of Ruth, as well as that of the finding of Moses. All the highest (English and German) authorities seem unaware of the distinction, the former at all; the latter in its fulness.

CHAPTER II.

PHILOLOGY AND STYLE.

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CHAPTER II.PHILOLOGY AND STYLE.A. PHILOLOGY.

The importance of the philological study of Bb. cannot be exaggerated. That study must be the foundation of all effective investigation and without it no assured results are to be reached. This is no mere expression of pious opinion, but my firm personal conviction arrived at after an independent and searching linguistic consideration of practically every word in the Code.

Investigations more or less exhaustive have been made by all commentators, but the method adopted has nowhere had in view the purpose of elucidating Bb. in its differentiation, as a whole and in detail, from the other documents of the Pentateuch and the OT. in general. Comparison of subject-matter, laws, and such like, there has been in plenty; but no comprehensive comparison on the basis of philology has ever been undertaken, or it has escaped my notice. Dillmann, Driver, and others have collected various peculiarities in terminology and Holzinger, who is prominent in giving a gratifying amount of space to the linguistic and literary peculiarities of E, can only present, when he comes to deal with Bb., those already specified by Dillmann and a few from Baentsch. The aggregate is surprisingly incomplete and quite inadequate to the desired end of placing Bb. before us in its total philological significance. (@ 'Einl. in d. Hex.' pp. 181-197.)

To do this exhaustively would be to write a new commentary of a specialised kind and such a commentary I had prepared, but as it would entirely overload this thesis, I propose in this chapter to submit the main results only.

I introduce the philological consideration thus early and in immediate succession to the treatment of the subject-matter because it is there in the last resort (or primarily) that we find what the author and the document really and actually purport and because only on this basis are genuine and correct findings capable of discovery. The assurance gained by a radical acquaintance with the genius of the document, and which can only be acquired by such a study, enables the investigator to proceed with a confidence that would rightly otherwise be lacking, to the examination of all further aspects of the question.

I begin with a list of Bb.'s ἀπὸ λεγόμενα . It is surprising to observe their number in a work of such slight dimensions.

𐤒𐤒 : (LXX. τροπήσει). 21:6. 'bore, pierce'. Admittedly archaic.

𐤒𐤒 : (LXX. δμιλία). 21:10. 'cohabitation'. Root, 𐤒𐤒 'response, correspondence, commerce'. Briggs, ('Hex.p.217) derives it from 𐤒𐤒 'dwell'; but this view is apparently revised in the Lexicon. Hos.10:10 𐤒𐤒𐤒 (K), rendered 'furrows' in AV. should be read 𐤒𐤒𐤒, 'transgressions' as in RV.

יִזְדָּח : (LXX. ληνός, tub, wine-vat). 22:28. 'weeping, trickling', (BDB), 'juice', i.e., 'wine or (and) oil'. Rt. יִזְדָּח, 'to weep'. Briggs suggests 'overflow'. The LXX. is a paraphrase. With תְּבִיאָה adjoining, it renders 'the firstfruits of thy threshing-floor and of thy wine-vat'. This suggests that the two words in combination formed a short, succinct and popular expression, in familiar use to denote the offerings in both kinds, grain and fruit, and I have attempted to reproduce something of the kind in rendering 'thy offered'fulness' and 'flow'"above (p.36). Dr. Kennedy, (Enc. Bib. 5314) interestingly suggests that the holes in the spreading-place may have been termed 'eyes' and the liquid collecting in them would therefore be appropriately called the 'tear'.

These three words are genuine hapax legomena, absolutely exclusive to Bb. and never occurring again anywhere else in the OT. I have separated them from the following, which are also commonly called so, because in the case of the latter, traces of the root to which they belong occasionally appear elsewhere..

בָּרַח : (LXX. κατὰκαυμα). 21:25. 'burning, branding'.

The root בָּרַח, 'burn, scorch, brand', occurs in Is. 43:2, and Pr. 6:26. Another derivative,

בָּרַח, is found in P. (Lv. 13:24, &c.) meaning 'burnt spot,

scar of a burn', and still another in Is.

3:24, 'פ in the phrase 'branding instead of beauty'. פִּיִּי never occurs anywhere else.

קָנָה : (LXX. *φερνίζω*). 22:15. 'acquire (as wife) by paying purchase - price'. Vb. denom. from קָנָה, itself a rare word to be noticed later. Vb. thus coined by author.

קָנָה : (LXX. *κερατιότης*). 21:29, 36. 'addicted to goring'. Rt. קָנָה, 'push, thrust, gore,' is infrequent. (7t. in OT.) Sole use of this adj.

קָנָה : (LXX. *τὸ πῦρ*). 22:5. 'burning'. Rt. קָנָה, 'burn, consume'. (Reasons for retaining text are given later.) קָנָה; (LXX. *καταβασκήση*), H1., 'cause to be grazed over', and קָנָה, Pi., 'feed, graze', might well be reckoned as additional hapax legomena for they are the sole occurrences of these parts of this vb. in OT. קָנָה never occurs again.

Few will refuse the title of

hapax legomena to these and it is questionable whether it may not be claimed by the five following, with equal justice:-

קָנָה : (LXX. *ἐν χειρὶ δούλου*). 20:25. The use of this word in the sense of 'tool' is very striking. קָנָה occurs 41lt. in OT. It is rendered 'sword' 400t., 'knife' 5t., and 'dagger' 3t. The three remaining occasions are Ez. 26:9, (EV. 'axes') where BDB. with justice suggests the usual translation may be the correct

one; 2Chron.34:6(Q), but where בְּתִרְבֵּי־הָהֶם ,
'in their ruins', should probably be read;
and here, where alone it has the undoubted
sense of carving-tool.

טַעַן : (LXX. $\kappa\alpha\theta\omega\mu\omicron\lambda\omicron\gamma\eta\sigma\alpha\tau\omicron$) 21:8. The word is found
28t. in OT. Its usual meaning is 'appoint, as-
sign, designate'. Only here and in the next
verse has it ever the sense of 'espousing',
(RV), 'betrothing' (AV), and it is notable that
this is the special use of the word in later
Heb., 'acquire or designate as wife'.

נָשַׁבַּת : (LXX. $\acute{\alpha}\gamma\omicron\iota\kappa\alpha$) 21:19. This and Pr.20:3 are the
only two instances in OT. of the נָשַׁבַּת indubit-
ably derived from נָשַׁבַּת , to 'cease'. The one
other possible, Is.30:7 is from נָשַׁבַּת . The sense
here involving the idea of "loss of time" EV.
or 'sickness' (LXX), Lat. 'aeger', is quite dis-
tinctive from Pr., which implies mere refrain-
ing (from strife). Brigg's tentative admiss-
ion that this word may be from נָשַׁבַּת , ('Hex.'),
is withdrawn in the Lexicon.

בְּכַשְׁפָּה : (LXX. $\phi\alpha\rho\mu\alpha\kappa\omicron\nu\varsigma$) 22:17. A markedly peculiar
word, [from קָשַׁפַּת , a Pi.vb.denom. meaning 'to prac-
tice sorcery' and occurring only 6t. in OT. but
in all the codes only once (Dt.18:10) apart
from here]. A special peculiarity is its ptc.
fem. form of which, it may be noted, LXX. gives
no indication.

עוֹר : (LXX. $\acute{\alpha}\sigma\chi\eta\mu\omicron\sigma\upsilon\nu\eta$) 22:26. lit. 'skin'. BDB make

a distinction between the root of this word and the root signifying 'be exposed, bare' by the remark that the root of this word, or at least its meaning is unknown. The distinction seems justified by common usage throughout OT, but this document alone ignores it, the word here bearing essentially the sense of 'pudenda', and not 'skin'. LXX. notably corroborates, giving the same rendering as for עָרְוָה, 20:26.

Further, it may be pointed out that

דָּמָה : (LXX. φόνος) 22:1., is used in Bb. and probably nowhere else, in the sense of 'guilt of bloodshed, blood-guiltiness'. LXX. gives a second rendering (ἐνοχος, 'liable, subject') in the next verse. The meaning in Ps. 51:16; Ho. 12:15; Ez. 18:13, is probably 'mortal sin'. Again,

דְּהִיבָה : (LXX. βλέπόντων) 23:8, 'clear-sighted ones' is the only use in OT. of the plural of this adj. the sing. of which also appears only once (Ex. 4:11(J)). D. uses the much more obvious phrase,

עֵינַי תִּכְמֹדִים .

Thus far the suspected Conclusion has not been [not been] laid under contribution but there the following are to be noted:-

אֶבְרָתִי : (LXX. ἐχθρίνω) 'be hostile, be an enemy'. This is the sole instance in OT. of the use of this verb in any part but the pto. which is used 282t. as a noun. 23:22. Next, (LXX. varying)-

וְהִגַּדְתָּ : (LXX. ἐβαλὼ αὐτοὺς) 'thou shalt drive them out'. 23:31.

The archaic personal pronoun enclitic *in-* is found nowhere else in OT.prose. These pronominal forms are among the oldest elements of the language and the suffixes probably the oldest of all. (Ges-K.'Heb.Gram'.Sect. 58.3.Rem.1. Sect.32.1.)

These words are found in the portions of the Conclusion admitted even by Bă. to be genuine, although in deference to Wellhausen, he withdraws his favour from the part of the verse in which *אֶתְּכֶם* is found, not trusting his own judgment! (Bundsb.p.56f.)

Only a pedantic interpretation of the term 'hapax legomenon' would exclude the first seven and *אֶתְּכֶם* from the above list; and these eight alone give a very strong impression at the outset of the striking originality of the little piece. This impression, it seems to me important to point out, is very much stronger than students of the document have been led to understand from the works of eminent critics who have given the subject consideration. Holzinger's list, for example, ('Einl.i.d.Hex.'p.177f.) presents a combination of the peculiarities of Bb. noticed by Kuenen, Jülicher, Dillmann, and Baentsch, but none of these, apparently, have observed that *אֶתְּכֶם* stands solitary here in the midst of the OT., and none of them mention *אֶתְּכֶם*, or *אֶתְּכֶם*, or *אֶתְּכֶם*, while they do observe 25 expressions that are much less striking than the 16 above.

There are not only single words but many phrases as well that are used exclusively in Bb. I submit now a list of phrases strictly peculiar to the document. The case for the hapax legomena can, indeed, be strengthened by the inclusion of the first two on this list, for the distinctive $\eta\alpha$ and ܕܝܕܝܢܐ are really such, but being preceded by a preposition, may take their place more accurately among the phrases.

The presence in Bb. of an exclusive law-section (21:7-11) should be recalled here and that section as a matter of fact produces a little crop of exceptional words of its own.

ܝܗܝܐ : (LXX. $\mu\acute{o}\rho\omicron\varsigma$) .21:3. 'by himself': twice in this v. and once in the next. Sole use in OT. $\eta\alpha$ (root, $\eta\eta\lambda$, Syriac ܐܥܠ , 'curved, convex') means 'body, (back?), self'. Its plu. constr. Pr.9:3, has the quite different meaning of 'higher places' or 'height, elevation (of the city)'. In Dn.7:4, $\eta\alpha$ is Aramaic, meaning 'wing' (of a bird).

ܕܝܕܝܢܐ : (LXX. $\mu\epsilon\tau\grave{\alpha} \acute{\alpha}\xi\iota\omega\mu\alpha\tau\omicron\varsigma$) .21:22. 'after arbitration'. This word, archaic like the preceding, appears in no other code and only twice elsewhere in OT., both times in poetry. Dt.32:31. Jb.31:11. My rendering, reached independently, is noticeably confirmed by LXX. ($\acute{\alpha}\xi\iota\omega\mu\alpha$, 'decision'.) This phrase is further treated under Text. Driver ('Dt'. p.372) renders ܕܝܕܝܢܐ , 1S.2:25. Ps. 106:30. Ez.16:32, 'to mediate'.

אֶתִּי : (LXX. οὐ ποιήσεται ἅμιν αὐτοῖς) .20:23. lit. 'ye shall not make with me' i.e., beside, alongside me: German 'neben'. Gn.39:6 is nearest parallel, but only so: אֶתִּי-יָדָע (יֹדֵעַ) מֵאֲדָמָה Lxx. does not render אֶתִּי at all and apparently has לְפָנַי before it. Text faulty?

וְאֱלֹהֵי זָהָב : 20:23. 'silver gods and gold gods', as in LXX. J" (symbol herein for Ex.34:10-26) has מִסִּכָּה אֱלֹהִים, 'gods of molten metal', and אֱלֹהֵי זָהָב, and אֱלֹהֵי כֶסֶד, as well as מִסִּכָּה of gold or silver are referred to in Is.2:20;30:22;31:7;Pss.115:4;135:15, but this expression is never repeated.

מִזְבֵּחַ אֲדָמָה : (LXX. θυσιαστήριον ἐκ γῆς) .20:24. 'an altar of earth'. Even J" takes altars (and their form) for granted.

חִנָּם : (LXX. ἐλευθέρος δωρεάν) .21:2. 'free, for nothing'. The only use of the phrase although חִנָּם occurs four times in this chapter alone, and also elsewhere.

בְּעַל אִשָּׁה : (LXX. εἰ γυνὴ συνιστάσθῃ) .21:3. lit. 'if he were husband (or owner) of a wife (or woman)'.

בְּעַלְתָּ בְּעַלְתָּ, with same meaning, Gn.20:3;Dt.22:22.

אֶל-הָאֱלֹהִים : (LXX. προσάξει αὐτὸν.. πρὸς τὸ κριτήριον τοῦ θεοῦ) 21:6.

וְקָרַב אֶל-הָאֱלֹהִים : (LXX. προσελιύσεται ἐνώπιον τοῦ θεοῦ) 22:7.

עַד הָאֱלֹהִים : (LXX. ἐνώπιον τοῦ θεοῦ ἐλίσσεται ἡ κρίσις) 22:8.

all of bringing difficult cases 'before God.'

אֶל יְהוָה : (LXX. οὐ κύριος ἐστίν) .21:8. 'he shall not have dominion (power) to'. Only instance of

this verb construed with ז and inf. Evidently archaic and very forceful.

$\text{יִדְּזֶה אֶת־} : (\text{LXX. } \kappa\alpha\tau\epsilon\lambda\acute{\iota}\theta\eta\iota \epsilon\acute{\iota}\varsigma \tau\acute{\alpha}\varsigma \chi\epsilon\iota\rho\alpha\varsigma \alpha\upsilon\tau\acute{o}\upsilon) .21:13. \text{lit. 'if God cause to meet to his hand' . Pi.of vb.is found only 4t.in OT. 'be opportune, encounter opportunely' . The whole phrase is naive in excelsis.}$

$\text{זָכַח בְּמִשְׁכָּבֹוֹ} : (\text{LXX. } \kappa\alpha\tau\epsilon\lambda\acute{\iota}\theta\eta\iota \delta\epsilon \epsilon\pi\acute{\iota} \tau\eta\nu \kappa\omicron\iota\tau\eta\nu) .21:18. \text{EV. 'keep his bed' ignores sense of } \text{זָכַח} . \text{'Fall ill' is nearer but still inadequate. Succinct and quaint. Contrast literalness of } \text{נָשָׂא בְּמִשְׁכָּבֹוֹ} \text{ (Esth.7:8.) BDB's 'take to his bed' is happy.}$

$\text{קִדְּשׁוּ אֲנָשִׁים} : (\text{LXX. lit.}) .22:30. \text{'holy men' . While the phrase is peculiar, the idea has already appeared in E. (Ex.19:6.)}$

$\text{אֶת־הַזָּכָר הַזֶּה} : (\text{LXX. } \tau\acute{\omega} \kappa\upsilon\nu\acute{\iota} \acute{\alpha}\nu\omicron\rho\acute{\iota}\psi\alpha\tau\omicron \alpha\upsilon\tau\acute{o}) .22:30. \text{It is striking that this should be the sole instance in OT.of use of this picturesque phrase. } \text{זָכַר} \text{ appears again only twice in Pent. Ex.11:7, common use; Dt.23:19, opprobrious term for male Temple prostitute.}$

$\text{אֶת־הַדָּבָר} : (\text{LXX. } \pi\alpha\rho\alpha\delta\acute{\epsilon}\xi\eta \acute{\alpha}\kappa\omicron\upsilon\eta\nu) .23:1. \text{RV. 'take up a report' . 'Utter' , (one of senses of } \text{אָמַר} : \text{cf. Ex.20:7,7) 'repeat' it. LXX's verb means 'receive as inheritance, succeed to' and thus possibly the repeating and not raising of reports is alone here forbidden. The distinction, however, is probably too fine and the characteristic sense of } \text{אָמַר} \text{ is too strong to be resisted.}$

תָּשֶׁת יָדְךָ עִם : (LXX. συνκαταβήσῃ με). 23:1. lit. 'put thy hand with'. Driver refers to 2K.15:19 and Je.26:24, for idiom; but these have תָּשֶׁת יָדְךָ . The idea is of being confederate in evil.

וְהָיָה הַמָּוֶל : (LXX. ἐσθλὴν θυσίαν). 23:16. 'feast of harvest'. It is very striking that this name should be only here, for this feast. In J" (v.22) and in Dt.(16:10) the name is מִנְחָה . In P (Nu.28:16), it is referred to in the phrase בְּיוֹם הַמִּנְחָה .

לֹא-תִזְבַּח דָּם... (זָבַח) : (LXX. θύσῃς αἷμα). 23:18. lit. 'thou shalt not sacrifice the blood of my sacrifice'. דָּם is nowhere else in OT. used as accusative of זָבַח , although it is so used after מִנְחָה by J" (v.25).

I have reserved for emphasis the two following:-

תַּעֲשֶׂה יְמֵיךָ : (LXX. ποιήσῃς τὰ ἔργα σου). 23:12. 'thou shalt do thy work'. תַּעֲשֶׂה (not plu.) is a distinctive term which marks out the Sabbath law in Bb. from the same law in all the other codes. J" uses the verb תַּעֲבֹד; D and P constantly use תַּעֲבֹד . The fact stamps originality upon the passage. (Cf. Dillm. op, cit. p.245.)

בֶּן-אִמְתִּי : (LXX. ὁ υἱὸς τῆς παιδίσκῃς σου). 1b. 'the son of thy slave-wife'. In connection with the above law D mentions only the אִמְתִּי, while J" and P mention neither.

There remain as strictly peculiar the two phrases which have long been taken as indicating the accepted characteristics of Bb. as a code and a system, namely, *מקום אשר* and *בכף-המקום אשר* and *מקום*, and these will receive treatment at length in connection with the Basic Principle of the code.

Thus there are to be discovered by the careful observer no fewer than 35 different expressions which, without any stretch of reasoning, may be declared strictly peculiar to Bb. There are many, however, which, though they do not come under that restrictive qualification, yet deserve very careful notice as indubitable indications of the basal and original character of the document.

It is well known, for example, that in subject-matter D covers much of the ground originally occupied by Bb. but D's dependence is not confined to subject-matter. The task in hand in this chapter is to present in their fulness the linguistic and literary peculiarities of Bb. but no harm will be done if part of another task is anticipated at the same time. The concern at present is with the unusual words and phrases in the document. Among these are -

מקום : 20:22. *מקום* : 21:6. *מקום* : 23:30.

These three are found again in D alone; the two last as they stand, at Dt. 15:7 & at 7:22 respectively; the first with a variation. It should be noted that the last is borrowed from the Conclusion.

Notable signs of borrowing are found in the next two at least of the following:-

- דָּבָר : (22:8) is used in Bb. exceptionally in the sense of 'cause, case, plea'. (LXX. κρίσις)
 רָשָׁע : Hi. (ib.) is Bb's word for 'condemn',
 The former of these is used in no other code in this sense except by D (3t.-17:8; 19:15; 22:26); the latter, strange to say, is never used again except by D (25:1) in any code.
 קָבַץ : (22:25) 'bind, pledge', 3t. again in D. only of codes.
 The following are further found in D

but not exclusively in every case; -

- צָרַעַת : (23:28) 'hornet' is found only in D (7:20) and in Jo. 24:12.
 אֶרְשָׁה : (22:15) 'betroth'. D has it 6t. In OT. 11t.
 הִקְרַח : (22:23) 'burn, be kindled' (of anger). D 5t. and not in other codes.
 אֶמֶת : (23:1) 'emptiness, vanity', here, 'without foundation, baseless'. 3t. in D, 2t. in Dec. are all the Pentateuchal uses.
 קָמָה : (22:5) 'standing grain'. D twice. Nowhere else in Pent. 5t. elsewhere.
 מִלְּבָשִׁים : (22:8, 25) 'outer garment, clothes'. D twice. Not again in Pent. Otherwise 12t. in OT.
 אֶבֶדָה : (22:8) 'lost, (better) wandered thing'. In D once (22:3). Lv. twice, 5:22, 23. OT. 4t.
 מִלְּאָה : (22:28) 'fulness, full produce, abundance'. D once, 22:9. P once, Nu. 18:27. Only 3t. in OT.
 אָחַר : (22:28) 'keep back, bring late'. Twice in D, and nowhere else in codes.
 עָוֵר : (23:8) vb. Pi. 'make blind'. D once. Otherwise only used in course of one incident (2K. 25:7; Je. 39:7; 52:11.)
 סָבָה : (23:8) 'twist, pervert, overturn'. Once in D. Elsewhere poetic.
 זָכָר : (23:17) 'male', Twice in D. Once in J" (v. 23).
 עֲנִישׁ : (21:22) 'fine'. Only Dt. 22:19 & 2t. outs. Pent.
 The following, like פָּלִיץ above, are sole

occurrences in OT. prose: -

- פָּצַע : (21:25) 'bruise, wound'. 6t. in poetry.
 מַכָּה : (ib.) 'stripe, blow'. 4t. in poetry.

The following are sole occurrences in the Pentateuch: -

- חָזַת : (20:25) 'cutting, hewing'. Otherwise 10t., mostly in connection with construction of Temple.
 מַעֲלֹת : (20:26) 'step, stair'. Later Ez. & Ps. titles.
 בְּגַד : (21:8) of 'treacherous dealing' in the sexual relationship.
 עֲרָמָה : (21:14) 'craftiness'. Once Jo.; 3t. Pr.
 אִדָּישׁ : (22:5) 'heap, stack'. Otherwise twice OT.
 מִשְׁעָנֹת : (21:19) 'staff'. (Nu. 21:18. poet.) Othw. 9t.

There is only one other occurrence in OT. of the following:-

- זָדָה : (21:13) 'lie in wait'. 1S.24:11.
 אֶגֶרֶת : (21:18) 'fist'. Is.58:4.
 פְּדִיּוֹן : (21:30) 'ransom'. Ps.49:9 and that its only use in poetry.
 מִתְחַרֵּת : (22:1) 'breaking in' (not 'burglary' BDB, in sense of house-breaking; see above p.62.) Je.2:34.
 אֶסְף : (23:16) 'ingathering, harvest'. J"v.22.

Thus including those which D alone repeats once, these solitary repetitions number as many as 8 in themselves. On the other hand two striking words all but qualify for classification among the above, namely:

- רַגְלִים : (23:14) 'times' (plu. of רַגַל as it were 'foot-beats' in marking time). Only in one other passage, Nu.22. 3t. (J).
 נֶאֱמַר : (21:10) in sense of '(animal flesh as) food', which it bears here, only Ps.78, but in two verses; while the phrase
 הִכִּין מְקוֹם : (23:20) 'prepare a place' is used three or four times by the Chronicler in connection with the ark.

Among other notable words in Bb. are:-

- אָסוֹן : (21:22,23) 'mischief, harm' only again in Gn.42:4,38;44:29, probably all E.
 כְּסוּת : (21:10;22:26). Archaic (Briggs). Elsewhere 7t. 'covering, clothing'.
 עֲבָרִי : (21:2) 'Hebrew'. Used mostly in OT. by J and E and by them always in connection with the captivity in Egypt, except here.
 מַחֲלָה : (23:25) 'sickness'. Only Ex.15:26 (JE) and twice outside Pent.
 בְּעִיר : (22:4) 'beasts, cattle'. 6t. in OT. Only once outside Pent. but not in any other code.
 מִיטָב : (1b) 'the best'. Very infrequent. Gn.47:6, 11; twice in P's narrative; elsewhere only 1S.15:9,15.
 סֶקֶל : (21:28,29,32) 'stone, put to death by stoning'. An early word not used later than Is. and Kings.
 חַנוּן : (22:26) 'gracious'. Only here and in J" in Pent. But embryo of a great OT. phrase occurring with variations 12t. in all.
 מְצָאָה : (22:7,10). Here and in only 3 other instances in sense of 'property'. 162t. elsewhere it is 'work'.

- הִדָּר : (23:3) 'favour'. In OT. 7t. in all. Twice elsewhere in Pent. In every other case it bares sense of 'honour'. Here only in bad sense of being unjustly partial.
- נָטַשׁ : (23:11) 'Leave' (let alone) 'forsake, permit'. Word occurs 4t. in Pent. and elsewhere, but only here and in Ne. 10:32 in sense of 'leaving untilled, letting lie fallow'.
- כָּחַד : (23:23) Pl. Hi. 'hide, efface' (BDB). 'annihilate'. Driver calls this a rare word, yet it occurs 32t. in OT. I think it may be claimed that the application of the word 'rare' in this chapter is much sterner.
- יָנַחַשׁ : (23:12) 'take breath, refresh oneself'. Elsewhere only Ex. 31:17(P) and 2S. 16:14. Contrast noun from which it is produced.
- זָפַתָּה : (22:15) 'seduce, entice'. D uses Qal once and these are all the occurrences in the Pentateuch.
- נָגַח : (21:28, 31, 31) 'push, thrust, gore'. Apart from this code, only 7t. in OT. D has it in a poetical passage (33:7).
- כָּרַח : (21:33) 'dig' is in no other code and elsewhere mostly in poetry.
- קוֹצִים : (22:5) 'thorns', is found only once again in the Pent. Gn. 3:18. 10t. elsewhere.
- מָרַפָּה : (22:12, 30) 'animal torn' (by wild beasts) 6t. in Pent. 3t. outside. An E-Bb word.
- שָׁאָץ : (22:13) is used here in sense of 'borrow'. This sense seems monopolised by E. (Ex. 3:22; 11:2; 12:35, 36). It should therefore have been prominent in Dillmann's list of the latter's correspondences with Bb. (Op. cit. p. 220). 2K. 4:3 may be exception to E's monopoly.
- הָיָה אַחֲרָי : (23:2) lit. 'don't be after' i.e., 'go after, follow'. Early and colloquial. Only again 2S. 2:10. 1K. 16:21. Cf. 1S. 12:14.
- זִיד : (21:14) 'boil up' 'act violently'. 10t. in OT. Dillm. classes it as E-Bb. but J has it too (though in first sense). In latter sense it should be put among D's borrowings for he uses it so 3t.
- הָרָה : (21:22) 'pregnant'. 3t. in J. and this the only other use in Pent.
- אֲבִיב : (23:15). The month is thus named only 6t. and all are in Pent. J has it twice, v. 18 and D twice, 16:1, 1.

Such a survey as has been here undertaken leaves upon the mind a deep and adequate impression of the originality of this document. It would be hard to find a parallel to these three chapters in the Hebrew OT. Having read that through, my experience is that only perhaps in the book of Job is it possible. But even there the abundant difficulties lie in the text and constructions very puzzlingly involved. But here the text is in comparison simple if it has problems of its own. Nor is it that Bb. is distinguished in peculiarities because of its place in the early portion of the OT. These are inherent in its nature and belong to its genius. This will doubtless become more evident in dealing with its literary style.

B. STYLE.

There are two features in the style of this document which, if I am not mistaken, have never before been observed by writers on Bb. and which are yet so prominent it is remarkable indeed that they seem to have escaped notice.

The first is the predominant use of the Infinitive Absolute. It is a notable fact that this distinguishable feature of the Hebrew language itself is employed no fewer than 28 times in these three chapters. An independent study of the usages of the inf. abs. in OT. has yielded, among others, the following results which have a bearing upon this point.

The writer who uses the inf. abs. most frequently is Jeremiah. He has it 137 times in all,

but he makes common use of the simple infinitive by itself, without the related finite part of the verb, which Bb. never does. After Jeremiah the other books show the frequency of usage in the following order:-

Isaiah, 73t. Ex. 55t., (apart from Bb. 27t.) Dt. 51t.

Gn. 50t. 1S. 49t. Nu. 39t. Lv. 36t. Ezek. 35t. 2S. 31t.

1K. 21t. 2K. 20t. Pr. 19t. 2Chr. 16t. Jb. 13t. Pss. 12t.

This feature is not to be explained in Bb. any more than in Jeremiah by any necessity for expressing the imperative of commands. As a matter of fact a considerable proportion of the instances occur in the first part of a hypothetical sentence. Yet they are by no means confined to the mishpatim and indeed the climax of this feature is reached in a sentence which is not one of these (22:22). This is a verse of 12 words, half of which are made up of three inf.s. abs. נִפְעָלִים נִפְעָלִים נִפְעָלִים : יִפְעַלְךָ מִן־הַמָּוֶת וְיִפְעַלְךָ מִן־הַבְּרִיָּה וְיִפְעַלְךָ מִן־הַבְּרִיָּה. The feature is not due to the exigencies of the matter. It is a turn of style and a characteristic one at that. What the significance of the similar trait in the style of Jeremiah is will be taken up again.

Another distinctive feature of the style is perhaps more immediately clear to one who has made the subject of Hebrew synonyms a special study. There is no mistaking the predilection of this writer for different words of the same, or largely the same meaning and his intentional use of them where the distinction comes into play. It is impossible here to go into the subject in detail, but an impress-

ion of his vocabulary in this respect will be given by a tabulation of instances:-

זֶבֶח	(20:24)	and	זֶבֶח	(21:37)
אֲדָמָה	(20:24; 23:19)	and	אָרֶץ	(23:10) 'earth, soil'.
אֶרֶץ	(23:9)	and	מָקוֹם	(23:20) 'land, country'.
הָנֶם	(21:2)	and	אֵין כֶּסֶף	(21:11)
בָּעֵץ	(21:3)	"	אֲזִכִּי	(21:4&c.)
בְּנִשּׁוֹ	(")	"	זָבִידוֹ	(22:19) (זָבִידָה 22:26)
הַגִּיט	(21:6)	"	הַקָּרִיב	(22:7).
אָמָה	(21:7)	"	עֲבָדִים	(21:7), the latter term including female slaves. LXX. 'δουλαί'.
				(Dillm. op. cit. p. 227).
נִכְרִי	(21:8)	and	גֵּר	(22:20)
יָעֵד	(")	"	אֲרָשׁ	(22:15)
שָׂאֵר	(21:10)	"	בְּשָׂר	(21:28, 30)
כִּסְוָה	(")	"	שִׁנְיָה	(22:8, 25) and in transliterated form, שִׁנְיָה (22:26.)
אָנָה	(21:13)	and	פָּאָע	(23:4).
רִיב	(21:18)	"	נִצָּה	(21:22)
מִשְׁעָנָה	(21:19)	"	שָׁבַט	(21:20)
כִּוִּיָּה	(21:25)	"	בְּעֵרָה	(22:5).
כִּפְרִי	(21:30)	"	שִׁדּוֹן	(21:30)
בְּעִיר	(22:4)	"	בְּהֵמָה	(22:18)
בָּעֵר	(22:5)	"	קָדָה	(22:23)
מִלְאָכָה	(22:7, 10)	"	מַעֲשֵׂהָ	(23:16, 16)
דָּבָר	(22:8)	"	רִיב	(23:2, 3, 5).
יָנָה	(22:20)	"	קָצָץ	(1b.)
עֲנִי	(22:24)	"	דָּבָר	(23:3) and אֲבִיּוֹן (23:6, 11).
לִצְלָץ	(22:27)	"	אֲרָר	(1b.).
שָׂוֵא	(23:1)	"	מַעֲקָר	(23:7).
הִיָּה אַחֲרֵי	(23:2)	"	נִצָּה אַחֲרֵי	(1b.).
אִיב	(23:4)	"	שָׁנָא	(23:5).
שָׁמַט	(23:11)	"	נִשְׁמַט	(1b.).
רִגְזִים	(23:14)	"	שִׁעָרִים	(23:17).
חָג	(23:15)	"	כִּוְעֵד	(1b.).
קָצִיר	(23:16)	"	אָפָה	(1b.).
רָשִׁית	(23:19)	"	בְּכֹרִים	(1b.).

and to this list may be added the three names for God, יהוה (20:22, &c.), אֱלֹהִים (21:13, &c.), and הָאֱלֹהִים (23:17).

A third distinctive feature of the author's style ought to be obvious to the careful reader, namely, his love of assonance. This is 'writ large' all over the document. Instances such as בָּנִים אוֹ בָנוֹת (21:4), בָּנִים אוֹ בָנוֹת (21:18), עַם אָמִי (22:29), יָמָה מוֹת יָמָה, (21:12) might be indefinitely multiplied. This is part-

icularly prominent in his presentation of the longest list of details in connection with the lex talionis. Evidently as if he enjoyed each return of the sound, he fills three verses (21:23-25) with these. There is no other reason apparent as all later codes found less sufficient. But above all as proving his love of assonance is his constant employment of the inf.abs. to which that feature is native.

This feature is not here remarked upon for its own interest merely. It is so marked throughout that it is a factor to be reckoned with in any truly critical judgment of disputed passages in the text. It should, for example, in my opinion be decisive in justifying $\pi\alpha\psi\iota\text{-}\alpha\ \pi\alpha\psi\iota\text{-}\alpha$ (22:9) and at least taken fully into account in the consideration of the rather laboured verse, 22:5.

Paranomasia and word-play, manipulation of words of double meaning and other minor mannerisms may be traced in 23:5 and elsewhere .

The writer's style is, without doubt, as interesting and varied as that of any OT. author. "Symmetrophobia", to use a word apparently coined by Principal G.A. Smith, ('Jeremiah', p.35) may be said to be characteristic of his style as of his arrangement. It is antithetic in quality: here, virile and masterly; there, apparently careless and slovenly; presenting a piece of divine 'oratio recta', he shocks the absorbed and forgetful student with the sudden emergence of the "I" of God from the middle of the document; fragmentary,

parenthetic, abrupt; yet full of its own passion for righteousness, justice, and mercy, because informed by a spirit holding these things dear.

I am well aware that reasoning on the basis of philology has often been pressed too far and that in its name extravagant conclusions have been reached; this can only be deprecated. At the same time, its essential value and importance are indisputable when sanely applied. And the examination thus concluded ought at least to provide determinative help in the comparison and contrast of Bb. with other codes and other documents in OT; and the accumulative effect of the instances given in this chapter seems bound to impress any fair-minded judge with the fundamental literary distinctiveness of the Book of the Covenant and its right to the place of preeminence as the earliest important and independent document in the OT.

CHAPTER III.

TEXT AND ORIGINAL POSITION.

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POSITION.

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CHAPTER III.

TEXT AND ORIGINAL POSITION.

A. TEXT.

The matter of chief importance in the Textual Criticism of Scripture is the attitude of the investigator. In approaching his task it is essential that he should free his mind from all preconceptions either as to the text or its content. He should let the former in the first instance speak for itself; and short of contradicting itself, the text ought to be allowed every liberty - to stand. Even if it is a matter of extreme difficulty to read a comprehensible meaning out of it or into it, the last resort - rejection or excision - has a permissible function only in a 'locus desperatus'; for one of the main rules of criticism for all Biblical documents at least is that "the more difficult and obscure reading is to be preferred to that in which everything is so plain and simple that every copyist could easily understand it. (Griesbach.) The practice of excision once adopted has a fatal facility for repetition and soon no text is safe.

It is hardly to be denied that the Book of the Covenant in passing through the crucible of modern criticism has suffered unnecessary violence. Preconceptions and misconceptions have both played their

part in this, but both preconceptions, usually adopted at second hand, and misconceptions alike could and would have been avoided by the simple process of allowing the text to speak for itself. This will become more obvious, I trust, in the sequel of this Thesis but meanwhile I may be allowed to associate myself with the "strong protest" of Dr. Welch ('Code of Deut.' p. 39f.), against the critic and not the text determining the intention of the man who wrote it.

In the textual criticism of Bb. there is one question of vital and primary importance and nothing can be done with the rest of the text before this subject is adequately discussed. That is the question of the so-called 'plural passages'. According to a criticism which has received a wide acceptance, these passages have no rights in Bb. They are additions - not the mere plural words or endings themselves - but the passages in which they occur. And much, of course, lies behind this allegation - another hand, another purpose, and ultimately, in effect, another 'Book of the Covenant'.

Wellhausen was the first to make this momentous suggestion with regard to them. ('Comp. des Hex.' p. 89). There he holds that the section, 21:1-22:16, has been preserved intact, presumably because the 2nd sing. is used uniformly throughout, but that it is different with the debarim; and he singles out the passage, 22:17-30, as being prominently subject to the sudden emergence of the 2nd plu. Thereupon he affirms, "Ich

glaube, dass der Plural hier als Leitfaden benutzt werden kann, um jehovistischen Zutaten zu entdecken," and later critics have adopted this as a systematic rule.

If this be really a criterion, it may very reasonably be expected that it will be capable of application to all the passages. Again, if it is a real criterion in which the critics who use it believe, they will apply it to all the cases. The task before us, then, is clearly to inspect all the cases and observe whether the criterion is either applicable or applied. (In the Revised Rendering of the Code given above, pp. 31ff. all relevant instances of both sing. and plu. are underlined).

The first words of the code are -

"And Yahweh said to Moses, Thou shalt say to the Israelites, Ye...." At the very outset it would appear that the criterion is to be rigidly applied for this is the first of Baentsch's series of Zusätze, which are practically the plural passages, and which he considers to have been made by a later redactor. Both verses 22, 23, he rejects, not merely ^{because} they are plural passages, but because their transcendent view of God is not indigenous to Bb; because the prohibition of images belongs entirely to the province of Deuteronomy; and because the latter verse bears a clear reference to the Decalogue to which it stands in no intimate relation. ('Das Bundsb.' p. 45ff.) It is evident that Wellhausen's criterion already carries a loaded significance in the hands of Baentsch and refers to a much later redactor. To his

first objection, submitted without proof, it may be replied that in all the accounts given of the transactions at Sinai it is clear that Yahweh is not confined to any earthly dwelling-place however high. He is "a free personality" not bound to Sinai; and even at Beth-el He "comes down". (Welch: 'Rel. under Kgdm.' p.14.) His second assertion, as Dr. A. R. S. Kennedy has remarked, is an assumption; and his third will make but slight impression today in view of the re-investigation of the age of the Decalogue.

The plural in these opening verses is the most natural thing in the world. It would have been awkward to write, "Thus shalt thou say unto the Israelites, 'Thou...'" and once having begun with the plural he continues it, only however to the end of the first commandment, after which he drops into the sing. form - that of the majority here, and doubtless originally of all. The plurals in these verses must be allowed to stand; and this - remarkably - is the verdict of Wellhausen himself, who, notwithstanding his own rule, does not hold that in this case the plural is a sign of later amplification. "Nach alle dem", he says, "stehe ich nicht an, auch 20:23 den Plural als Zeichen späteren Zusatzes zu beurteilen, zumal das Bilderverbot gerade den Spätern sehr am Herzen lag." ('Comp. d. Hex' p.90.)

The next passage is 22:20b, 21, 23. Here undoubtedly lies the crux of the question and of the argument.

Baentsch asserts that the presence of

the plural here is especially perturbing and formulates the following reasons against their inclusion: 1) that v.21 obscures the only possible reference of לְאֵלֹהִים to אֱלֹהִים in v.20; and 2) that v.23 with its "strongly exaggerated rhetorical phraseology" is without analogy in Bb. With regard to the second of these objections which may be taken first as it is less vital, nothing can be said but that the critic will look in vain for an analogy if he first render it invisible by cutting it out. 23:9b is an analogy; it is even a rhetorical analogy; as a matter of fact this is the only subject to which an analogy is possible, for the alien is the only subject twice dealt with in the code, except perhaps slaves; all of which has its significance and all of which the rule in the hands of Baentsch prevents him from seeing. The question of the alleged influence of Deuteronomy, which he here opens up in ascribing these verses to the Deuteronomist, is yet to be discussed.

Baentsch's first objection I can only describe, with the Hebrew before me, as an error in fact. Unless he is to be allowed to beg the whole question, the reference of לְאֵלֹהִים to אֱלֹהִים is not the only possible one. There is another and a very decidedly more natural one, namely, to the nearest preceding masc. sing. noun. That is אֱלֹהִים , and though the pronominal suffix is sing. in לְאֵלֹהִים and not plural (as the reference includes two subjects), Baentsch as a Hebraist would have no quarrel with that. (Bä. 'Hand. Kom'. in loc. But see Driv. p. 103 infra.)
My own observation, however, leads

me to conclude that it is impossible in justice to the Hebrew to dismember this passage as is proposed. It seems to me as clear as day that the hand that wrote v.21 wrote also v.22. which is declared to be an unwarrantable addition. Let it be noted how the latter follows on after v.21, which closes with $\text{וְאַתָּה תַעֲבֹד} \text{ } \text{אֱלֹהִים}$. Immediately comes $\text{אֲמַרְתָּ תַעֲבֹד תַעֲבֹד אֱלֹהִים}$. Nothing could be more unmistakably logical and natural than the progression of thought. Having laid down the command, he goes on at once to emphasise the seriousness of a possible breach of it, by the use of the inf.abs. of the last word of the command. If language ever disclosed the identity of writer and thing written it is here, and it is impossible to doubt that these two verses were written by the same hand and by that hand consecutively as they stand.

Gressmann, on the other hand, ('SAT'.II. 1.p.228) does not allow these verses into the text asserting that they must be late because they break the connection. From this statement one would infer that they interrupt some argument or the continuous treatment of some single subject. V.19, however, forbids sacrifice to other gods. V.24 begins: 'If thou lend money to my people...' There is no connection to break and these verses form a strong new connection of their own.

It ought to be observed how translators have conspired, it would seem, to obscure the connection so clearly emphasised by the Hebrew author, the

!non
itis;
laes-
..."

LXX. with its literal rendering, being an honourable exception - v.22:οὐ κακώσετε. v.23: εἰ κακίᾳ κακώσητε.

Gressmann has '...sollst du nicht übervorteilen(נִיִּץ) und nicht bedrücken(יִנִּץ)...; wenn du ihn bedrückst...'.
Baentsch: '...sollst du nicht bedrücken(נִיִּץ) und nicht quälen(יִנִּץ); wenn du ihn aber bedrückst...'. Both use a

verb in the hypothesis which they have previously used but no one would infer from this that the word emphasised by the inf.abs. in the Hebrew hypothesis is not any one of the words they use but a third and new word, נִיִּץ. AV. and RV. both use three different words, but again the strong connection is obscured by the order in the sentences and it can only be brought out effectively as in the rendering on p.30 above.

The genuineness of the text, then, may be held to be established apart from the fact that there is a sudden change from sing. to plu. oftener than once. But it can hardly be called 'specially perturbing' in view of what has been said above of the rest of the passage. It is really no more perturbing than anywhere else and particularly than 20:23 which is allowed to stand by the originator of the rule that alone would oppose it.

The next occurrence of the 2nd plu. is in 22:24b. Here Baentsch and Gressmann apply the criterion as usual and ascribe the portion to the Deuteronomic redactor. But apart from the rule they submit no argument for its exclusion, while one would naturally expect some consideration of each case on its own mer-

its. Nothing anomalous is alleged about its place or intention in this verse. Whatever view be taken of $\text{לְכָל־בְּנֵי־יִשְׂרָאֵל}$, whether as synonymous with $\text{לְכָל־בְּנֵי־יִשְׂרָאֵל}$ or implying an exaggerated form of it ; and though it be admitted that D. allows interest to be taken from foreigners, it seems conceded that this injunction, expressed in the plu. as it is, is not inconsistent, by right of content and spirit, with its place in this code. But for the existence and alleged validity of this rule, then, it would be unchallenged, and this, it may be noted, is corroborated by the significant fact that Driver, who has a long and interesting note on this verse ('Ex'. Cam. Bib. p. 232) and who in general favours the Wellhausen criterion, takes no notice whatever of this plural. Clearly the case is too strong for its application here.

The next passage is found at 22:30. Baentsch experiences considerable difficulty in his attempt to exclude this verse, a difficulty which did not diminish with time. In the 'Bundesbuch' (p. 48f.) he speaks of the plural as indicating an intrusion, but in his Commentary, eleven years later, it is only 'secondary'. Discussing the attitude of the law-makers to carcasses, which, as he justly remarks, becomes more lax with the advance of time, he declares that the content of the verse in itself does not prohibit its belonging to Bb. On the contrary, a regulation of the kind is to be expected here. This, he holds, must be pre-Deuteronomic and belongs, if not perhaps in the actual words before us, to the earlier form of Bb. "We have to recog-

nise in it one of those accretions which have crystallised upon the Bb.legislation,yet undoubtedly one of the earlier which,together with some others already mentioned can rank as original." This is going far,in the way of admissions,for one who wields the criterion with all its implications,so drastically.

But as to the form of address which appears in the verse,what other form,it may well be asked,can any man use but the plural,when he is bound to address more than one person? The criterion necessarily fails here and Baentsch could not turn the edge of Dillmann's simple but sufficient objection that the author could not have written *וְאֵל* here in addressing the Israelites; that *וְאֵל* naturally offered itself,and as naturally attracted the plural verb after it!

The next passage,23:9b,is one to which allusions have already been made. Here again the change from sing.to plu.is absolutely natural on the supposition that the laws in general were expressed in the sing.

The writer could not have said "thou" without awkwardness.A rare touch of appeal follows the command. The code in some respects reaches high-water mark in this verse. But Baentsch dismisses it with the remark that it is a "tiresome repetition" of 22:20. If that be so, then what was there submitted as against his contention will hold good of this. Dealing with the previous similar passage,Driver makes the remark:"we have here the same motive in exactly the same words" as in 23:9 and

elsewhere. The remark is apt to be misleading. The words are not the same, because an interesting psychological expansion of the motive is introduced here, and here only among all references to the subject anywhere, in the words: "for ye know the feelings (שׂוֹנֵא) of the alien!" The interest of the lawgiver in the 77 is unmistakable and the latter comes directly to his mind again when he is dealing with truthful witness-bearing in the tribunal, just where the alien and his testimony were most likely to be "suppressed". (See Rendering above, p. 36.)

This verse is therefore by no means mere repetition and very far from "tiresome" and is to be considered an essential part of the text.

The criticism of 23:13, the next verse to be considered, is outstanding for one thing, namely, the complete absence of any proposal to apply the Wellhausen principle to it. Baentsch, with others, suggests that this verse formed the original conclusion to Bb. and in such a conclusion, he remarks, even the plural might be allowed to stand. And if in the conclusion, it might be asked parenthetically, why not in the introduction? - and elsewhere? But not another critic known to me takes any notice of the fact that here we have any plurals at all. It might be thought hardly worth while, therefore to trouble further about them or to remark upon the occurrence after the last "ye" of the sing. suffix in 77; but this has its own significance, as it happens, which will be noted presently.

As we are dealing with the text generally in this chapter notice must here be taken of other objections to this verse, especially as the 'plurals' question is more or less involved throughout.

Much has been said of this verse being the original conclusion of Bb. or of one of the smaller collections of laws out of which, it is sometimes alleged, Bb. was composed; and of positions other than its present where it would be more appropriate. The evidence on these points is not convincing. That it was a conclusion does not seem to have struck Dillmann, for example, at all; and the suggestion must presumably be later than his great work on Exodus. He holds the verse to be late, however, and to be due to one of those redactors who "could never repeat too frequently the prohibition against idolatry". Driver again considers that it can hardly be in place in the midst of laws relating to sacred seasons. Both these statements seem to be beside the point.

For though the prohibition of the worship of other gods and of image-worship is a common theme of later writers and leaders, it is an arbitrary proceeding to seek to eliminate it from Bb. Indeed it is impossible, for the subject is emphasised in the most unmistakable fashion in one verse which, in its main statement has never been challenged (22:19). Again we have just seen that 20:23 withstands attack. On the ground of these facts, 23:24 and 23:33 in the suspected Conclusion may be taken as reflecting correctly the

- . proper feeling of Bb. on this always all-important point. The prohibition then is indigenous to Bb:[@] it is emphasised - with the heaviest emphasis known to law, the death-penalty; and this verse properly read is but a repetition - and the final - before the law-giver passes on to a positive development of the same theme, and what he says is, "Of all that I have said take good heed and especially make no commemoration of any other god..not one mention!...but with regard to my commemoration..." The position of ~~וְאֵל~~ at the very beginning of the second half of the verse after 'athanah justifies the emphasis; and the special significance of ~~וְאֵל~~ is that with its sing.suffix it quite obviously links this verse on to the following; and all of these features I have sought to bring out in the Rendering on p.37. The connection between v.13 and v.14, therefore, is excellent (the spacing in MT. being negligible); that between 12 and 13 needs no justification and Driver's objection falls. Finally, when a writer asserts "All these commands are urgent but this is especially so; he is elevating the command so singled out to the place of chief importance in his code and opinions such as Baentsch's that the prohibition of idolatry belongs to the province of D; or ex cathedra statements such as Harford's[@] that in any case it is over-costly images only that are forbidden are seen to be seriously at fault. [@] ('Ex'.Peake's Com.p.186a) That prominent place does not seem unnatural in Bb.

[@] Cf.
'OTJC'
p.346.

It will be seen that the Conclusion is marked by the same disregard of numerical uniformity, and Baentsch declares that the change of person is sometimes intolerable. But impatience is not the way to truth. Here we find -

23:21. Against this Baentsch has nothing to say that I can discover. In this he is consistent for the verse stands in the middle of a portion which he has declared to belong to the original nucleus. Dillmann takes no notice of the plural (suffix). Driver also ignores it.

23:25. Bā. ascribes this to the redactor; but not, it should be noted, because of the plurals. Others take no notice. Briggs, in his exhaustive note on the divine names ('Pss'. I. p. lxxf.), points out that נְּאֻם יְיָ (as here) is a phrase of D² (circ. 70t.) and Bā. refers also to D. but the inference from multiplicity in one writer to influence, direct or even indirect, upon another and especially an earlier, is one likely to lead to very precarious results and has been carried much too far in criticism. In my opinion it is perfectly inapplicable here for more reasons than one.

23:31b. For some reason Bā. renders בְּיָדְךָ as 'in thy hand' and so obliterates the numerical difference. It is, no doubt, only a curious mistake. In any case, no critic takes any notice of this plural.

Now whether the Conclusion is genuine or not, the irregular plurals are here as unmistakably as before. No critic thinks it worth while to apply the criterion to them and certainly it would be a matter of extreme difficulty, to say nothing more, to wedge it in between the two closely knit halves of a succinct statement like: "Ye shall serve Yahweh, your God and He shall bless thy bread.." or like: "For I will give the inhabitants.. into your hands and thou shalt drive them out.." and the difficulty is even more pronounced in Hebrew. Yet though the critics take no notice of it here, the phenomenon, it must be observed, is exactly the same as before, and the problem, if problem there be, is in every way identical to that in the rest of Bb. (23:25) (23:31b)

But there is another feature of this same question which must be noticed in any adequate consideration of it. The interesting fact that the 'persons' do not vary solely in one way, from 2nd sing. to 2nd plu., seems to have escaped attention. For there is at least one passage - whatever, again, be the view of its legitimacy - in which the change is not from 2nd sing. to second plu., but from 2nd sing. to 3rd plu., and this passage, 23:15, is not in the Conclusion. Driver ascribes it to the redactor of JE, but it is held by Baentsch to be genuine E. From the point of agreement these words are most fittingly used by D, where the subject is 'all thy males'. (Dt. 16:16). In J" (v. 20), the last mentioned subject is 'all the first born of thy sons'; but this can

hardly be the correct reference and indeed it seems more decidedly misplaced in Jⁿ than anywhere. But if the verse be genuine as is admitted by one strenuous critic, mere agreement in the persons is too slight a ground for claiming this for D as Driver does. A second deliberate repetition of the phrase and what will be later seen to be the characteristic association of Yahweh with the land in this code are too weighty considerations on the other side. (Further, p. 119 infra).

Before coming to a conclusion on the plural passages, one or two other irregularities may profitably be noted.

As the Hebrew stands in 21:22, 23, we have in fact two incongruous apodoses, the first in the third person - 'he shall be fined;' the second in the 2nd per. - 'thou shalt give life for life..'

Again in six verses (21:20, 21, 26, 27, 28, 32), a masc. pronominal suffix is used to refer back to an alternative involving two sexes. This may be justified by fairly common usage but the same can hardly be said of a sing. verb in the apodosis of a sentence following a protasis containing a plural subject and two plu. vbs. 21.2. 'If men fight and strike, ... he shall be fined.' There is no apparent reason but indifference to account for this. Another writer would find no difficulty in expressing it accurately, D., for example, in the same conditional situation - 'If brethren dwell together and one of them die;' or, 'When men strive together and the wife of one of them ...' (Dt. 25:5, 11), and the apodosis

in each case is properly concluded.

But, most strikingly of all, 22:29b. presents a characteristic peculiarity. A sing verb after a collective noun is, of course, not strange, but here we have in relation to a combination of collective nouns a sing. pronoun and a sing. verb; for אֵלֶּם is essentially collective and וְיָמִי is all but universally taken as collective and yet there follows: 'it shall be with its dam'. No Hebrew scholar can fail to appreciate this peculiarity. Driver in his note on 22:23f. which I have left for reference till now, says there are not infrequent cases in poetry of a class of persons being referred to by a sing. pronoun but this is very unusual in prose. The remark is just, and we may add now that in Bb. of all places an instance might be expected, and the distinction he seems to draw in the parallel passages of his note between pronouns and pronominal suffixes is exceptionally fine, and if that is what he means, hardly worthy of consideration; but the instance in this verse of a sing. verb as well as sing. pronoun referring to a class already mentioned, even though only living things and not persons, (of which there is a striking example in 23:23) is probably unparalleled in OT. and outrivals even the instance in 22:23 which may well be described as "very unusual in prose."

Thus we have dealt with all and not only a few of the plural passages in the document and glanced at a number of related peculiarities. Such a procedure, and such only, can at once be fair to the docu-

ment and put the whole question in its proper perspective. The passages have rightly been taken as they stand with the purpose of finding, if possible, some reasonable explanation of them. This ingenuous and open-minded method is found when applied, as it should have been applied at first, to yield results very detrimental to the alleged 'criterion'. The following are the findings with regard to the ten passages.

The first is spared by the originator of the rule himself. Rule not applied.

The text of the second, has, it may I hope be taken, been proved genuine; and the natural conclusion is that the plurals rightly belong to the text. Proved inapplicable.

No arguments are submitted for the ejection of the plurals and Driver and others ignore them. Again not applied.

The genuineness of the fourth passage is admitted by the most rigid employer of the rule, and all other critics think the use of the plural an absolute necessity. Not applied.

The fifth case comes under the same verdict as the second. Proved inapplicable.

In the sixth, no critic takes objection and the plurals are admitted even by Baentsch. Not applied.

In the case of the last four no notice is taken from the 'plural' point of objection and the 10th is never mentioned from this point of view at all.

Surely here is something remarkable! That what has always been considered a weighty criterion should be questioned or even disproved in its applicability to two cases (really one) out of ten may call for little remark; but that that criterion should not be applied in eight cases out of ten by the critics themselves who believe in it is astounding.

And yet it is on such a criterion that all criticism of the Book of the Covenant has been built up for the last fifty years and on such a criterion that probably the best and most indigenous portion of it has been relegated to a date removed by centuries from that of the rest of the Book.

There can be no question then, it seems to me that, much more completely than a similar attempt made by Stärk, Steuernagel, and others to prove on a similar principle a distinction among the laws of the Deuteronomic code,[@] this perhaps more serious attempt must also fail.

(Welch. 'Code of Deut.' p. 12f.)

The truth of the matter is that the alleged criterion never existed and especially not in the brain of Wellhausen who is given the credit of its origination. An unbiassed reading of his own words quoted above gives the immediate impression that he feels he has hit upon a suggestion which may prove useful. It is a perfectly legitimate critical suggestion and he expresses it tentatively with the hope that it may be taken up and proved or disproved according to the further evidence that may be gathered. In the hands of

Baentsch, whose name and method impressed a too servile following, it became a principle at once rigid and misleading. It was rigid however not, as we have seen, in the sense that it was applied with victorious logic to every case in turn; but that in its name and unearned authority everything suspected was cast aside to the detriment and injustice of as rare a piece of original writing as is to be found in the OT.

Precisely how these irregularities crept in may never be known. Fragments of the laws, expressed in the plural, may have been current in Northern Israel, where certain interesting and independent variations of the religious tradition of the nation were maintained (Welch. 'Code of Deut'. passim.) and to which E was native. But it is hardly worth while to speculate. These plurals all told and in every form, pronominal, verbal, or suffixal, number 19 in the body of the document and four in the Conclusion and occur in the course of 105 verses. And if they are inconsiderable in number, they are much more so in serious import for the real significance of the piece. The conclusion to which a thorough and well balanced study of the whole document will inevitably lead is that these and the other irregularities just considered are disturbing merely to grammatical accuracy and not at all to the matter or the sense. My own conviction is that there is not one that cannot be amply explained by reference to the transactions of a compiler, probably enough the compiler who introduced Bb. into his narrative, rather than a redactor whose nat-

ural function at least would have been to smooth them out; and as far as we have yet seen this compiler was loyal to the document's intention and recognised its right as an ancient law-book to utter its own message in its own way.

The path is now clear to the further treatment of the text. At the outset it should perhaps be remarked that I have conceived and applied the relationship of the LXX. to the question of the textual criticism of the MT. in the light of W. Robertson Smith's excellent and discriminating appreciation of that epoch-making translation which he gives in 'OTJC', pp. 75-107.

It will be well to deal at once with outstanding features in the order of their occurrence.

The first of these is the alleged importation into Bb. of a certain amount of substantive material from J" after 23:13, more especially. This is a question that is entirely dependent upon the relative ages of the two, a point that has received no adequate consideration and will be taken up later in the comparison with other codes.

The question of transpositions which has been already referred to in connection with the arrangement of the piece, need not be further dealt with, though textual critics make a number of interesting suggestions. None of them help very much beyond placing similar regulations nearer to one another.

The proper reading of the text in 20:24 and more particularly of the words דִּקְרָא-בְּ is

vital and fundamental and the discussion of this must be deferred to another chapter.

The main attack of criticism in connection with Bb. has centred, of course, upon the Conclusion. Gressmann concludes his survey, indeed, at 23:13 ('SAT'. II.1.p.229), implying that all the rest is either added from elsewhere or spurious. Baentsch, after unsparing scrutiny, restores us 23:20-22 and 25c-31a. He rejects v.23 because of its supposed change of attitude to the γ , for which we have seen no reason to exist (p.45 su); v.24, on the pure assumption that the prohibition of idolatry was not pre-deuteronomic; v.25, because of the plurals; and the last section, 31b-33, because of the relation of the latter part of it to J", which must be held meantime as not proven; and because of the introduction in the first part of a view of the agency and completeness of the expulsion of the inhabitants of the land which is contrary to that in the immediately previous verses allowed to stand.

To posit so clear a distinction between two opposing views of the completeness of the expulsion still in prospect in these verses as to be compelled to reject one with decision, needs very keen vision. On the other question, too much has been made by Baentsch and others of the supposed confusion of Yahweh with his agents in this passage. The early method of thought here conspicuous, which identifies Yahweh with his Angel, with his people, or even with the hornet is merely analogous to the anthropomorphic of which there is abundant use

made throughout OT. To reject a verse which speaks of God's agent accomplishing the conquest because a neighbouring verse speaks of God himself as promising to accomplish it (presumably not magically) and to cause other independent critical minds to think the same, is a questionable triumph of personality!

Dillmann rejects vv.23-25 on the other hand, as being too futuristic; but we have already had reason to observe signs that the historical standpoint is the same in both portions (supra, p.58); and the Covenant characteristic, which makes the title of the work accurately descriptive, is preserved in the admitted if sundered portion.

The Conclusion, then is to be reckoned an integral part of Bb., reflecting its proper spirit, and accompanying it as a statement of the nature and conditions of the legislation with which it is bound up.

Nevertheless, it is in the Conclusion if anywhere, that the 'working over' process is to be admitted. The compiler may have felt he could allow himself a freer hand here; or it may have been in one way impossible for him not to betray his hand. Especially tempting is it to regard v.29f. with its "Not in one year", and "little by little", as a small piece of 'post eventum' prophecy prompted by the stern experiences of a later period; although it is just as possible it reflects only the wise prevision of a sage.

Again he seems to me at least, in-

evitably to reveal himself and his age by the use of words which in his day had acquired a religious and theological sense which was foreign to their use in the earlier time. This is entirely true, for example, of עֲוֹן (23:21) which has a connotation very different from that which it has in 22:8. In the former, it is laden with the religious significance of 'sin'; in the latter it is purely a technical offence against the law. It is also true of עֲמֵל which is never used in the body of Bb. in any sense other than that of labour and toil; in the Conclusion (23:25) that significance of 'divine service' is already present which was to make עֲמֵל in all after time for the Jew a word of sacred importance hardly second to Torah itself; הַשְׁתַּחֲוִיָּה , 23:24, here another full-bodied word and one with an interesting philological development; הִתְחַנֵּן (23:33) and the phrase כָּרַח בְּרִית (23:32), none of them used except in the Conclusion and all of them full of religious significance, seem to me to have been so identified with the compiler's mental equipment that his hand could not but betray him. And I think that here lies a proof, perhaps the stronger because unconscious, that he dealt honestly and loyally by the body of the document which the world should be thankful he preserved.

It may also be remarked before passing on that the change in the textual atmosphere has its counterpart in the LXX, which, having differed previously for the most part in numbers and endings, now differs by substantive additions, inserting 19:5, 6, into 23:22

thus making an exceptionally long verse. It is worthy of note, however, that the addition is from E. That E is to be identified with the preservation of the Conclusion may be stated, while we are dealing with it, to be in effect the finding of Baentsch, who says he takes no objection to the general ascription of the admitted passages to him. But he is not content to leave it at that but asserts they were orphan really; a self-existing conclusion without any reference to Bb, and joined to Bb. by who knows whom!

Several rather critical textual points in the body of the book may now be given attention.

One apparently needless repetition has already been justified (p. 96f. sup). Another is found at 23:14 & 17. This is an important regulation concerning the festivals. Is there anything extraordinary in itself in the solemn repetition of it? More especially when it implied so much as is suggested by Dr. Welch. ('Code of Deut'. p. 85f.) Besides, as has been noticed above, it is first introduced in another connection (p. 99), and on its second occurrence the important detail is brought in which especially indicates the male-strength of the population. In addition there is the absolutely distinctive word מִלְחָמָה in the first (p. 81 sup.) and it is not altogether fanciful to think that in the mind of such a manipulator of words there is a possible play upon the thought of 'procession' or 'journey' in its use. In any case there is no needless repetition here, and I am glad to find this conclusion is that of

Dillmann who is very emphatic that the repeated verse is not superfluous and is not transposed hither from J". ('Ex.Lv.'p.249).

There is perhaps no more interesting problem than 22:4,5 in our textual survey. Here Driver suggests after a fairly long consideration of the points at issue that וַיִּבְרַח should be substituted for וַיִּעֲרֹךְ and וַיִּבְרַח for וַיִּעֲרֹךְ . Baentsch made the same suggestion and it can be traced even further back, but Driver holds that this simple change gives the much more satisfactory sense, 'if a man cause a field or a vineyard to be burnt and let the burning spread, and it burn in another man's field, of the best..' It seems a very doubtful use of וַיִּבְרַח , however, as a mere expansion of the initial וַיִּעֲרֹךְ , in reality a less forceful verb, and also as applying to an inanimate object; whereas it is applied to וַיִּעֲרֹךְ in the text as it stands with perfect accuracy.

Driver urges the objection against compensation being 'of the best' that there is no malicious intention. Is not this a begging of the question? Nothing at all is said about intention either here or in the next case mentioned, but there an incendiary is actually implied. There is, however, a double suggestion of carelessness in the protasis, and Driver seems to overlook the fact that further on in his note he deliberately allows carelessness to be a sufficient ground for compensation 'of the best'. The vineyard again, he objects, is not pasture-ground for cattle. That is surely why the law was made! And though the stone fences were notoriously ill-

kept, there may have been reasons for that and in any case that could not be taken as justifying the offender. The verdict of "doubtful" is not equal to the task of removing an unusual word or form from the text of Bb. It might be applied by any one who has not realised one of its most outstanding characteristics to a large proportion of its terms.

Again the LXX. quite clearly has this text before it with an amplification which, according to Driver removes an objection (for which there seems to me no cause) to MT. as it stands.

But the strongest reasons for the retention of the text in v.24 have not yet been stated nor have I anywhere seen them submitted.

First, no critic seems to have remembered the existence of the systematic construction of these mishpatim. Vv.4 and 5 both begin with וְ . This fact indicates that in the mind of the law-giver these were both principal cases. Only if we take the text as it stands do we find they are principal or general cases with a perfectly distinguishable content. There is no mention of fire in the first verse. If, on the other hand, fire had been mentioned in the first verse, the second would have begun with וְאֵשׁ , and not with וְ , being then a secondary case under the principal in the previous verse. This seems to me conclusive from the point of view of the form. (See further p.116f. *infra*).

But the argument from the matter of the law appears to me equally conclusive. If what has been

brought out in connection with the Classification in Chap.I be recalled,namely that the largest number of enactments in the code on any single subject concerns live-stock (even if this one be excluded) it will be at once evident how germane this topic would be to the intention of the document. It is not only entirely in keeping with the other aspects of the doings of live-stock with which the law-giver has been dealing but it is above all most intimately in keeping with the experience of any one who has lived in the conditions of the life reflected in these chapters. There is no loss or damage more resented in such conditions than that caused in precisely the way it is described here and hardly anything is thought too good by way of compensation. The opinion of anyone living the life would be apt to be unqualified that the legislation which dealt with the general subject of live-stock in such a community and omitted just such a provision as this,would be unpardonably defective.

The reading in MT.21:22, of ^{וְהָיָה} has been objected to because first,of the substantive's rarity, which argument need no longer be taken into account; second,because of the strange use of the preposition; but it is hardly stranger than its use with ^{לְ} to which Gray makes reference on p.122f.in his 'Numbers'(ICC).

There he concludes from a number of possible senses for that of 'to'and even if the cases be not parallel, Bb's eccentricities would easily cover this. Driver begs the question again when he says that the mention

of arbitration is unexpected after the unconditional discretion just given to the husband. That is the point at issue; and it is surely a strange law, it may be said *allow* that would, such discretion as would put no limit whatever to the fine that any individual cupidity or caprice might suggest! Driver refers to the similar enactment of verse thirty, but there the fine or ransom was almost certainly imposed by the judges in the first instance. The most valuable aspect of Budde's lauded suggestion of לְפָנֵי הַיָּדֵינוּ is that it correctly represents the practice of the Code of Hammurapi. That is a consideration of no little weight, and this weight is in the balance against the independence and originality of the Hebrew genius revealed in Bb. It will be strange if it remain in equipoise.

The rest of the readings must be briefly dealt with, though not a few are of much interest.

20:22: Unless the first phrase is 'Ye shall not do with me (this)' i.e., what follows; and all ancient renderings as well as its awkwardness are against it, then the text must be defective for there are two verbs with a single object. The chief pause of the verse falls on לִי, and Luther, observing this supplies 'nichts'. Some short word like אֵין might be substituted for לִי only its usual concomitant is פָּעַל and not אֵין.

20:25. To suggest בְּהֵרָב as for הֵרָב because that commoner word appears in Dt. 27:5, and Jos. 8:31, is to misunder-

stand Bb.

20:26. Reading of Sam. Pent. וְיָזֵן , suggests the conception of the presence of God in the altar.

21:8. Again text uncertain. Either יֵזֵן to be read for יֵזֵן (as other 14t. in OT); or perhaps מִיָּדָיו for מִיָּדָיו and omit יֵזֵן .

21:18. LXX. inserts 'two'. Doubtless also to be inferred in v.22.

21:19. LXX. seems to have had מִיָּדָיו before it, so that we may render, 'pay his lying-in-time and medical treatment;' Gressmann: 'die Artzkosten ersetzen'. Code of Ham. has similar regulation.

21:29,36. LXX. evidently מִיָּדָיו ; possible, but indicates too drastic treatment for animal.

22:2ab. LXX. continues parenthesis to include מִיָּדָיו מִיָּדָיו so making these words refer to penalty of blood-guilt, rendering ἀποθνήσκει .

22:4. LXX.'s addition referred to above (p.113) runs: 'he shall without fail make good from his field according to his crops; and if he cause all the field to be burned' (of the best...). Kittel's additional וְאֵל makes the correspondence of number of letters closer, a matter of importance where every letter was considered with meticulous care. In this respect Hoffmann, Buhl, Baentsch and Driver all minimise the amount of change necessary to their suggested reading; it is not הַבְּעִרָה for הַבְּעִרָה , but הַבְּעִרָה for אֶת-הַבְּעִרָה . It should be further noted that apparently these critics are not aware that in making the suggestion they do they are manipu-

lating a hapax legomenon. (See above, p.71). The word קָטַף never occurs anywhere but in 22:5 in OT.

Promiscuous handling of such words is hardly permissible. It may of course be held that having once used it, the author might use it again but that is an assumption which the whole argument submitted above may be taken to have completely disproved.

22:7. LXX. fills out interestingly with וַיִּשְׁבַּע .

22:9b. וַיִּשְׁבַּע has been justified above (p.86) on the ground of assonance. That it is certainly not due to dittography, as Kittel suggests, is clearly proved by its recurrence in LXX.v.13.

22:19. The Sam. וַיִּשְׁבַּע is probably the original form. (Dillm. op. cit. p.239). Sam. omits 'except to Yahweh alone'. וַיִּשְׁבַּע was probably missed by a scribe and another hand substituted this. (Bä.)

22:28. LXX. seems unable to render, and paraphrases with $\alpha\pi\alpha\rho\chi\acute{\alpha}\varsigma$ ('beginnings'; first-fruits) $\acute{\alpha}\lambda\omega\nu\omicron\varsigma$ καὶ $\lambda\eta\nu\omicron\upsilon$. See p.70 sup.).

23:2. The text is probably faulty especially in the second half (which is much simpler in LXX.) where MT. is overloaded. Bä. observes double occurrence of וַיִּשְׁבַּע as also of וַיִּשְׁבַּע ; the unusual וַיִּשְׁבַּע with וַיִּשְׁבַּע , and the lack of an object to וַיִּשְׁבַּע , supplied by LXX. He suggests the intrusion of a marginal note; but objects to וַיִּשְׁבַּע , (ptc.) which Kittel proposes to substitute for וַיִּשְׁבַּע .

23:3. Dillm., Bä., Driver and others are all of opinion that וַיִּשְׁבַּע is a misreading for וַיִּשְׁבַּע . But the latter is too obvious. The mere fact that וַיִּשְׁבַּע has survived is convinc-

ing. Here, if anywhere should Bengel's rule apply: 'Pro-
olivi lectioni praestat ardua.' and how many opportuni-
ties have the scribes not had to insert the easier read-
ing!

23:4,5. As observed (p.59), these verses are evidently
misplaced and for that reason and because they outstrip
even Deuteronomy in sentiment, Bā. summarily ejects them.
But, these objections met, or to be met, and given the au-
thor's fondness for assonance and word-play which it
is practically impossible not to admit as characteristic
of the document, there is little real difficulty. BDB.
gives an excellent rendering at once simple and, I think,
preserving all the 'nuances' of the original and I have
transcribed it above (p.36). It is to be noted that לִּיּוּ
and לִּיּוּ are synonymous in the sense of 'leave, leave off'
and there is also a play on the double sense of לִּיּוּ ,
'leaving, abandoning', and 'loosing, freeing'. Kittel's
suggested לִּיּוּ לִּיּוּ bears a striking similarity in form,
but prosaic in sense. The LXX. and Syr. probably had be-
fore them לִּיּוּ לִּיּוּ , which is perhaps the only other pos-
sible word in Heb. for 'help'. The לִּיּוּ לִּיּוּ of the Targum
is very apt to the circumstances, but is an obvious par-
aphrase, ('deonerabis, unload').

23:6. The acceptance of the proposed לִּיּוּ would add an-
other item of favourable attention to an enemy who
would then rank with the 'great one' of v.3, according
to Kittel's reference.

23:7. Bā. and Driver commend the LXX.'s לִּיּוּ לִּיּוּ , but
LXX. adds immediately ἐνέκιν δούλων , after which the opening

of the next verse and regulation seems weak. Yahweh is represented as speaking in the 1st pers. in the undisputed 21:13; 22:26; as well as in 22:22, 23.

23:12.LXX.'s ἀνέπαυστος can hardly be נִחְמָה (Kittel), for that word is peculiar to P. So נִחְמָה for LXX.'s ἀναπαύσεται is conjectural.

23:13. Though תִּזְכֹּר be accepted, the plu. problem is not affected, remaining in former part of the verse.

23:15. יִרְאֶה is to be accepted for יִרְאֶה, and תִּרְאֶה plus תִּרְאֶה, for יִרְאֶה plus יִרְאֶה, in v.17, MT. being due to the exaggerated reverence of the Masoretes, notwithstanding the difficulty of construing יִרְאֶה as an accusative with the Ni. Thus, vocalisation only, changed. (Adams. op. cit. p.132f.) Usual phrase for admission to a royal presence and of Yahweh here as Sovereign of the land. (Dil. Driver, and others in loc.)

23:15bc, 17. These verses Driver proposes to omit because of parenthesis, grammatical irregularity, and repetition, and says they are probably taken from J". The evidence against their retention is to be held insufficient.

23:17-19. Bā. considers these a gloss upon Bb. Dillm. defends them and Bā., referring to J" v.24, asserts there are no promises in Bb. except in the Conclusion. Did he forget the existence of 20:24, say, which may surely be construed as a promise?

23:18. The addition to this verse in the LXX. is curious. It is not unquestionably from J" though Kittel cites it as v.24a there. It emphasises the prospective nature of the legislation. The suggested תִּזְכֹּר must be rejected.

23:21. תִּמְרָ is in form Hi. of תִּמַּר 'be bitter'; but this should doubtless be תִּמְרָ, Hi. juss. of תִּמַּר 'be contentious, refractory, rebellious'. It is notable as the sole occurrence of this form.

23:24. The word מַצְבֹּחַ תִּיָּהָם can hardly be a correct reading here, otherwise a striking contradiction is involved with 24:4. More will be said on the point in another connection but meanwhile the proposal of Kittel to read מִצְבֹּחֹתָם may be taken as justified by that decisive circumstance.

On the conclusion of this survey of the text, probably the principal finding reached will be that - apart from preconceived theories - no substantive portion of it need be suspected and even in detail it earns the character of remarkable trustworthiness. Considering the peculiar nature of a large proportion of its vocabulary, it can only be a matter of gratifying surprise that it has been allowed to retain so many indubitable marks of its early original form. And the knowledge of the trustworthiness of the text will add to the confidence already gained by a thorough acquaintance with its terminology.

B. ORIGINAL POSITION.

The original position of Bb. is one of the outstanding problems of the Hexateuch, and naturally various opinions are and have been held with regard to it. It will be at once apparent that the question cannot be dissociated from the Hexateuchal sources and

behind this section of our study lies a re-reading of the history of Hexateuchal criticism.

The possibilities of the situation immediately confronting us are these:- 1) Bb. may have been written by E; 2) it may have been written by J; 3) it may have been an independent and earlier document; 4) and if so it may have been assumed into the narrative of E; 5) or of J; 6) it may have been the work of any one of the redactors of J, of E, of JE, or of D.

Jülicher contended with some spirit for the actual authorship of E appealing mainly to the striking use of certain words and phrases common to E. and Bb., and to the resemblance of the latter to the Decalogue also in E. But Baentsch had an easy task in disproving these contentions ('Bundsb.' p. 60ff.) the latter because it is psychologically impossible to explain either the giving of two collections of law by Yahweh 'in one breath' ('in einem Athem'!) or the connection of E with the authorship of the Decalogue which Jülicher seems to imply; the former, by showing that words like אֵלֹהִים , בְּרָא , יָצָא , and מָצָא are used in Bb. in a sense so clearly distinctive from their sense in E, that they could not be attributed to the same thinking mind. And here it may be said that a complete disproof of the authorship or production of Bb. by E. or, for that matter, by any writer known to the OT. must surely be found in the evidence produced in the chapter on philology above where not only a few words differing in sense from those of E are submitted but many more that are not used at

all by him or any other, and a host of other indications pointing in the same direction.

For the same reason J is not and cannot be the author. Both J and E were historians and not law-makers. Much more emphatically do these considerations rule out the redactors as possible authors although it is surprising that this idea should not only occur but apparently cling to the mind of Baentsch who says in his Commentary (p.185), where he seems to grudge every item of admission of a new point of view, that "in its present form Bb. is the work of the redactor of D."

The argument and evidence that have been before us can lead to one conclusion and one only, that Bb. was a very early, independent, self-contained, and deliberately framed law-book, and as such it rightly holds a prominent place among the legal Codes of the OT.

Though its authorship is not then to be ascribed to any of the sources mentioned, it is nevertheless apparent, and now, indeed, generally conceded, that it has been preserved to us in the contribution of E to the Pentateuchal narrative. Baentsch, in his 'Bundesbuch' controverted this because of a too loose connection between the two; because E. had already presented the Decalogue; and for other inconclusive reasons which led him to ascribe it to J, as Wellhausen and Westphal had done before him. And it may be taken as a secondary but rather decisive item of proof of the correctness of the general opinion that Baentsch, after having proved to his temporary satisfaction that Bb. be-

longed to J, was constrained to alter his opinion so markedly as he did with regard to the obvious influence of E. ('Hand.-Kom.' p.185).

It may be said with confidence that E's traces and for the most part, his only are found throughout Bb. Dillmann gives a group of distinctively E. terms that recur in Bb. ('Ex.-Lv.' p.220) - לָקַח , $\text{לָקַחְתָּ$, $\text{לָקַחְתָּ$, $\text{לָקַחְתָּ$, and $\text{לָקַחְתָּ$. The first and fourth of these are perhaps slightly less decisive than the others; but there can be no question as to לָקַח , 22:13 and Ex.3:22, &c, which is a pure monopoly of E's in the sense of 'borrow'; and very little question of לָקַחְתָּ , 22:12,30; and Ex.31:29, a word which is never used either by J or D; or of לָקַחְתָּ , 23:1 and Ex.20:7,7. which, so far as the Pent. is concerned, is only repeated by D. None of these Dillmann mentions, but they certainly fortify the case.

E, moreover, seems to have had a native interest in the origins of the national institutions and religion which led him to preserve some record of them in his narrative. Perhaps not all that he left has come down to us but it is possible that, as Moore suggests ('Enc. Bib'. 1445) he gave an account of the original 'sacra' of Israel and in this code much of that strain is found.

Such indications must be taken as decisive against all purely negative findings, some of which are submitted in the article referred to in the previous paragraph. No other opinion is supported by positive evidence that will withstand criticism and

the general consensus of opinion must be held to be justified.

The question next to be discussed is the place of Bb. in the historic narrative, and it has proved itself a very puzzling one. In its present position it is beyond all doubt purposely intended to be taken as the foundation of a covenant concluded by Yahweh with Israel at Sinai. Hence its name. But it is just as much beyond all doubt that this cannot be done on any intelligible principle. An examination of the document itself such as has been undertaken here goes a long way to prove this. As Baentsch has said, that two sets of laws such as the Decalogue and Bb. should be reported as proceeding from the mouth of Yahweh on one and the same occasion, is psychologically inexplicable. In that case, for example, Bb. would have been likely to prove the more imposing and to overshadow the Decalogue.

The disentangling of the mingled narratives of the various sources has taxed the wit of the keenest minded. W. Robertson Smith, ('OTJC'. p. 337f.) justly observes that the perplexities of Ex. 19-34 have made these chapters the locus desperatus of criticism, and extracts from the confusion the following general inferences: 1) that J, whose account is very imperfectly preserved, did not mention the Decalogue at all but told how Moses was called up to the mount and received there the Ten Words of ch. 34. 2) E. (as D) confined the law proclaimed at Sinai to the Decalogue of Ex. 20, but also related how Moses was called up to receive further re-

velations not for immediate publication. 3) for Bb.no place can be found in any of these narratives.

These appear sober conclusions today! and certainly they would be hard to refute. We are thus left with the task of finding a place for Bb. and Kuenen was the first to make a brilliant attempt at discovery. His argument may be briefly stated as follows.

According to the author of Dt.4-11, Moses held the Sinai revelation 'in secreto' until just before the entrance into Canaan. That author, therefore, could not have been aware of the contrary communication (v.Ex.24:3-8) of the laws of Bb.at Sinai. Because that notice in the passage just mentioned is inseparable from Bb, he did not therefore find Bb.in its present position. In the account of the author of Dt.4:44;-11, accordingly, Bb.and the notice of its promulgation must have held the place which the Deuteronomic law now occupies; in other words, these transactions immediately preceded the crossing of the Jordan and took place in the land of Moab.It was with the unification of Dt.12-26 and JE, and because two law-givings at Moab could not well be narrated, that Bb.was first removed from its original place and joined to the Sinaitic legislation.

This ingenious solution of the problem has received wide acceptance and has been more helpful perhaps than any other proposed pending the discovery of the correct one.

That Kuenen's did not satisfy every enquirer is made clear by the fact that Holzinger propos-

ed another. If Bb. stood in E., he holds, another possibility than that assumed by Kuenen is presented. Jos. 24:25 announces, in a too casual way for the importance of the matter, that Joshua had made a covenant at Shechem and set them a statute and an ordinance. That, as it now stands, is absolutely meaningless. The (necessarily redactional ?) note, as he puts it, in verse 26a, that Joshua had made an entry in the book of the law of God, is perhaps an indicator. The great holy stone mentioned in 26b which was erected on the occasion is, according to v. 27, a reminder of a law promulgated by Joshua at this place and of a covenant concluded on the basis of it. The reminders of the past, vv. 2-13, were then as with the Deuteronomist, the introduction to a promulgation of law. From this onward, it is not inherently without reason to fill up the obvious lacuna lying before us in Jos. 24:25-27 with the Book of the Covenant and a more detailed and relevant narrative of the covenant-making.

The theory leaves too much to conjecture and it has not been accorded any weighty support, yet his association of the name of Joshua with it is not to be entirely disregarded. If Joshua is thus made a law-giver by E., Holzinger remarks, that is only the fulfilling of the promise of his prominent association with Moses. ('Einleit. in d. Hex'. p. 179).

The view of this question, however, which not only presents the case in a new light but preserves all that is most valuable in other proposals and which is, in my opinion, altogether convincing, is that of Sellin.

In his 'Introduction to the OT' which made its appearance in English only a short time ago, this able scholar gives in the space of three brief pages as much fresh and illuminating information with regard to Bb. as may be found in some volumes. His view is that from the verses belonging to E which are found in Dt. 27:2a, ba, 8, 5-7a, it may be concluded with the highest probability that Bb. once stood immediately before this and was displaced from its original position by Dt. 12-26. He holds it as absolutely impossible either that 27:3, 8 could refer originally to Deuteronomy; or that a later writer could have put into the mouth of Moses a command to place the permanent record of Deuteronomy at Shechem. It follows that according to E. Bb. was a Law which was given by Moses shortly before the crossing of the Jordan, possibly at the installation of Joshua in the leadership (Jo. 31:14ff.) and was carved upon stones in the neighbourhood of Shechem.

In striking agreement with this, he remarks, we find that precisely at Shechem there was worshipped in the time of the Judges, a God of the Covenant, (RV. 'the house of El-Berith'); and it was precisely there that Joshua (24:25) performed, with reference to a Law, the ceremony of making a Covenant; and precisely there that an altar in accordance with the Book of the Covenant was set up. This, he concludes, gives unimpeachable evidence of the age of the book.

It seems to me that here, if anywhere the true solution is found. The theory not only throws

new light on hitherto obscure circumstances and passages, but it fills out a number of previous incomplete suggestions. The time, for example, actually was immediately before the crossing of the Jordan, if the place was not Moab; Joshua again had the chief part in the promulgation of Bb. if he was not the law-maker; Bb. was, then, in all likelihood, written on stones, possibly even in Pentads, the very eventuality after which Briggs was feeling with many hypotheses (Hex. p. 232); and finally, it explains the "great national service" (Smith: HGHL. p. 333f.) as partly at least a service of inauguration of their dead leader's legislation; it explains the importance of Shechem in the book of Dt. and lends countenance to the argument against 'centralisation'; when D. honoured Shechem and never once mentioned Jerusalem he was but writing the history he could not controvert; but these verses mentioned by Sellin at the beginning of his argument prove that the history he was writing was the history of E whose narrative he or some other had suppressed.

This theory has implications which will be unfolded in the following chapters.

CHARACTERISTICS.

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CHAPTER IV.

CHARACTERISTICS.

The chief characteristics of Bb.lie patent on its surface. But they have been grievously misunderstood for varied reasons. This regrettable circumstance is true of all its phases, sacred, civil, and moral.

Almost any general characterisation taken at random from the works of undoubted scholars, displays this misleading conception of Bb.- Harper's, for example ('Priestly Elem.in OT'.p.155), "The Covenant Code, the earliest form of legislation, ordinarily called the prophetic code, because it is incorporated in literature of a prophetic character." If 'prophetic' as an epithet applied to Bb. here means 'inspired with a high moral sense', it is a true description. But it is notorious that this alone is not the sense and that the latent implication is that this code was first written under the influence of the prophets who lived and spoke in and around the eighth century; and that that is altogether erroneous is becoming clear.

First, it has been commonly held as a principle thoroughly established beyond all question, and the chief characteristic of Bb.'s system, that Yahweh would meet His worshippers only at certain distinctive places and at these places they would find His blessing. This

is so complete and fundamental misunderstanding that it will require treatment in a special chapter.

Again, unmistakable internal evidence, as it has been considered, has been taken as establishing with precision that the conditions reflected from Bb. are those of a community long settled in the land of Palestine and that the laws were, and simply could not but be, the outcome of the practical life and social experience of the people in these settled conditions. This opinion could only have been evolved by ignoring the inevitable relationship of Israel to the rest of the ancient East and seems to be due to a surprising lack of the essential historical imagination.

Thirdly, the humanitarianism, whose amazing warmth and solicitude sets Bb. in splendid isolation in a place apart from all contemporary and many other codes, has been removed with an arbitrary ruthlessness and ascribed to the credit of another code which, on any view of the dates, did not make its appearance until centuries later.

That this appreciation of the characteristics of Bb. may be as far as possible complete, the order thus indicated will be followed and the cult, the social situation, and the ethical standard will be taken up in turn.

It is to be noted at the outset that the whole legislation is presented as a revelation from Yahweh. It is too easily forgotten that the document is

one long piece of 'oratio recta'; but, as in speech so in fact, Yahweh is behind the law which he wields in conformity to his own holy nature and is pervaded by a sense of his righteous and gracious presence. ('OTJC' p.343). As Barth has well said ('Johannesevangelium', p.36): "Der Gott des Alten Bundes war ein redender Gott, ein Gott der Offenbarung, der Selbstmitteilung, des Wortes."

What must be at once admitted as the chief characteristic of the religious cult is its remarkable spontaneity and simplicity. Among the noticeable features here are - the most primitive form of altar; the oldest and commonest sacrificial victims; its absolute priestlessness (neither class nor dues: the leader, whoever he might be, the 'priest'); the absence of all 'theological' connotation in the terminology of worship; the ubiquity of altars at which the ordinary man might offer sacrifice.

The ordinance which is first in order is also, as we have already seen, first in importance (p.99 supra), and nothing could be more natural either to the circumstances or to the historical situation, when the nation whose God was now Yahweh, was embarking upon a new and settled life among peoples who worshipped other gods than him. Sorcery, which is essentially illicit worship, is likewise put under the ban. The loyal commemoration of Yahweh's name and of his relationship to them, takes the form of three annual and simple celebrations and the punctual offering of firstlings and first-fruits;

and all this might be done by every man without leaving his home, for there is not the slightest trace in Bb. of even the idea of centralisation. On the other hand traces may be recognised, yet these of the simplest kind, of the beginnings of a sacrificial ritual in the enjoined exclusion of leaven from the offering with blood; in the prescribed immediate disposal of the fat; as also, perhaps, in the prohibition of the eating of beast-torn flesh. I am aware that the above view of the feasts is not the generally accepted one, which will receive fuller discussion in the sequel, but it may be said here that it is admitted, by some outstanding critics, notably Driver, ('Ex.' p. 241), they have the appearance in the laws before us not of being introduced for the first time, but simply of being submitted for observance.

From the features thus presented we gather that the code contained no prescriptions sufficient in themselves to distinguish Israel's religious observances from those of other ancient nations. The distinction lies in the spirit and not in the letter. As we have seen, the religious conceptions are impressively simple. "The whole worship is spontaneous and natural." What distinguishes it is "the different conception of Yahweh which the true worshipper should bear in his heart." (p. 28 sup). This is a remarkable feature. It makes the whole attitude of the individual to observance a matter of principle, of conscience, of personal loyalty. And this is emphasised by the fact that there was really no executive power either installed or a-

available, to enforce any of the penalties attached to disobedience. The law-giver, having framed and published his laws, left their observance as a matter of personal trust to the people for whom he legislated, ~~hoping~~ they would, as a matter of personal or religious loyalty, respond to that trust. Even if he were constrained by the circumstances to do so (which is not unquestionable) it was a bold and, for his age, a wonderful thing that he did. It was a grand act of spiritual anticipation whose loftiness is perhaps not reached again until we enter the atmosphere of the New Testament and hear a Greater than Moses speak.

© (Benzinger.
Enc. Bib. 1903.
'OTJC'.
p. 341, &c.)

We turn now to the social conditions reflected from the legislation. It is here more than anywhere impossible that any careful reader can be led astray in the search for the real situation. Dr. Bruce Taylor in his short article on the Book of the Covenant (HDB. 1 vol.), among other correct estimates, says that the society of Bb. is "extremely simple". It is really much more simple than most critics dream of allowing. It is a common, almost an inevitable assertion in connection with Bb. that it presupposes "settled agricultural conditions". This is a simple misstatement of the facts. Yet all subsequent statements and arguments are based upon this piece of alleged irrefragible internal evidence. It has been shown above by the simple presentation of the subject-matter that the whole community is interested from the social or industrial point of view in the question of live-stock above every

other. The behaviour of live-stock towards human beings and towards other live-stock; the stealing of live-stock and what may happen to the thief; injury done to live-stock by people's carelessness; the havoc that straying live-stock may work among the growing crops of an adjoining owner; the lending of live-stock and possible injury to it in the hands of the borrower; the salving of straying or exhausted live-stock - these are the things and this the all-important subject upon which legislation is required for this community. But even [all] this is not all. There is one more revealing reference - and one may be thankful that no critic has ever thought of rejecting it - which must be regarded as indicative above every other as to the vital prominence of this feature namely, that in the Sabbath law; - of all places, surely the least expected. The Sabbath law is here motivated, however, by humanitarian considerations and the form into which the law is cast clearly proves that the cessation from work is enjoined as much, perhaps more, in the interests of his beast than of the man himself. "On the seventh day thou shalt cease that thine ox and thine ass may rest." Nothing will prove the intimate inter-relation between this community and its live-stock if this does not. And inevitably therewith the fact discloses itself that this is not an agricultural community at all. It is a pastoral community. But let me not be misunderstood.

The distinction is perfectly plain to any one who has immediate acquaintance with these phases of human industry. It is not denied in the least

in saying this, that agriculture was practised in the community, but that is quite a different thing from saying that the community as a whole was so immediately concerned with agriculture that the epithet of 'agricultural' could be specifically and technically applied to it as is so often done. For it is inaccurate. Fields and crops and vineyards there were; they were necessary and inevitable, but subsidiary, concomitants of the life. The agricultural aspect, further, would increase with the years after settlement; but meanwhile this is the life and will be mainly so for many years to come, even as it has been for many years in the past; and beyond all question it is the life which, from the social point of view, fills the eye and the mind of the legislator as he frames his laws for his community's guidance.

The establishment of this fact has numerous important results.

First, the feasts prescribed were perfectly capable of observance in the extant conditions. They were just such as would be appropriate to the simple community described; in other words to a community not specifically and purely agricultural; to a community, indeed, that might be conceived of as having shifted its ground before now with comparative ease; with whom in such a case things would be much the same in the matter of a year or two. These feasts in short would be no more distinctive of the life in Canaan than of the life in Kadesh.

Benzinger, who of course treats the whole

subject, as well as others in Bb., from the 'settled' point of view, (Art. "Feasts". Enc. Bib. 1509ff. Art. "New Moon" ib. 3401ff.) says that as the feasts were wholly dependent upon agricultural conditions they were therefore impossible in the desert.^② But we have to be sure that we know the 'desert' which Israel inhabited; and this will receive attention later. (② So Blount. Art. 'Pentecost'. Hast. DB. One vol.)

In any case they are just as likely to have been observed at Kadesh as in Canaan; and if this be so, and for other reasons, there arises the consideration that it is a questionable proceedings to read into the meaning of the word π , as is so frequently done by the best authorities even, the necessary sense of a 'pilgrimage' feast. The word is one borrowed from the Arabic where its interpretation in that sense may possibly be constant. Now it is possible in the case of no word to read exactly the same meaning into it at all times and in all places. But when a single word is borrowed by one language from another, it is possible that in every case the meaning is more or less modified in the process of adaptation to new national characteristics.

Moreover it is very interesting to note that while the Arabic π means 'to betake oneself towards an object of reverence; to make pilgrimage to Mecca', and the Sabaean π 'to make pilgrimage', thus sustaining the idea of going a journey; the Syrian π on the other hand, supports the simple signification of celebrating a feast. Some authorities, however, hold that π was doubtless the chief original Hebrew term for a

religious dance and Toy is held to have sufficiently proved that $\pi\omega\sigma$, the root of $\pi\omega\sigma$, 'passover' virtually means 'to dance'. Some idea of a 'procession' would therefore seem to be inherent in the word; but not sufficient to imply in every case a procession to another place, another town or city, but rather a processional dance as part of the festivity.[@] Thus the most prominent feature of the event, admitted on all hands to be joyousness and that again inevitably associated with dancing, was taken as describing the whole, and for, this, of course, many parallels are available. (©It is so with Arab, hajj. Art. 'Dance'. Enc. Bib.)

Again I find the expression $\text{לְרִאשׁוֹן אֶת-פְּנֵי}$ or its equivalent, is used only 11 times in OT. Once it is admittedly a repetitive gloss (J^v.24). Of the 10t. three uses are general and have nothing to do with feasts. (Ps.42:3. Is.1:12. Driv. 'Ex'. p.243: and he might have added the more striking Is.1:22). One only reference (Dt.31:11) is to a general assembly of the people, but there is here some idea of 'centralisation'. The other occasions are simply those in which reference is made to 'empty-handed' and 'males' - really, then, but two cases though they are found in each of the three collections, Bb., J^v., and D, and in the forefront of the first mention of any of these stands the word לֵאמֹר (Ex.23:14) as clearly synonymous with the phrase mentioned. (It adds to the interest to observe that לֵאמֹר is used with לֵאמֹר as the off-set to וְאָמַרְתָּ with לֵאמֹר in v.17.) The same implication, it seems to me, is to be read here that the feasts were simple assemblies of the people at the home sanctuary, involving

no further dislocation of their persons or their business than any fair or public function would cause in such a community today. Even Benzinger is constrained to admit the impracticability of a prescription that entailed upon at least the entire male population a journey and absence from home thrice repeated each year. It is hardly too much to say that it is contrary to the genius of the legislation; as it is contrary to good sense. (Welch. 'Code of Deut.' p.61). It seems clear that in the eyes of the legislator the people could have a 'house of Yahweh' wherever in the whole land they dwelt.

To read anything else into the legislation is to acknowledge a modified but palpable 'centralisation' of the worship and of this, as has been said, no trace can be found within the document.

Then Bb. clearly avoids connecting the feasts with historical events in Israel's past. That is done later. Only in the first instance does he identify the month of its observance with the month of the Exodus; but, as W. Robertson Smith ('OTJC' p.343) points out, even this is connected with a purely pastoral occasion, the sacrifice of firstlings of flocks (Ex.34:18-20) and herds - a form of worship known also to the ancient Arabs; and the other two are, like this, connected with the products of the earth and quite analogous to those found in other nations.

But if these arguments are reasonably correct, then the conclusion to which Benzinger and others come will be wrong after all (Enc. Bib. 1511) that

the feasts were originally Canaanite feasts which, in common with so many other portions of the Israelitish worship of Baal, were subsequently transferred to Yahweh.

Secondly, and of more importance, we are assured to weariness that these laws indisputably display 'prophetic' influence; that they could not possibly have been written before the prophets had spoken and their influence imparted and imported into Bb., not even by the writer but by the redactor of D., the code on which their stamp is indelibly impressed. Baentsch ('Bundsb. p.122f.) roundly declares that the debarim, so far as their moral and religious aspect is concerned, can only be understood as the product of the prophetic spirit which made itself felt in the eighth century. He is thus quite precise as to date. The date of Amos, the earliest writing prophet, is 759-745, the very heart of the eighth century. Should we turn to Amos, then, we may expect to find him uttering effective home-thrusts which, however stern they may be, will be appropriate and applicable to a simple community of the kind we know to be represented in Bb. And this is what we hear:

"Woe to them that are at ease in Zion! men of mark...to whom the house of Israel resort; ..who lie on ivory divans and sprawl on their couches and eat lambs from the flock and calves from the midst of the stall; who purr to the sound of the viol and invent for them instruments of song; who drink wine by ewerfuls, and anoint with the finest of oil!" And the women, - "Kine of Bashan, that oppress the poor and crush the

needy; that say to their lords: 'Bring and let us drink!'
 ...Therefore thus saith the Lord Yahweh: 'Siege and
 blockade of the land!' And they shall bring down from
 off thee thy fortresses, and plundered shall be thy pal-
 aces... Houses of ashlar ye have built and ye shall not
 inhabit them. For lo! Yahweh shall smite the great house
 into ruins and the small house into splinters."

Can there be any relationship in the world
 between the community pictured here where, as Dr. Smith
 says, Israel's wealth and social life are sapped by lux-
 ury and injustice, and the primitive society of Bb., ex-
 cept the intervening centuries of progressive civilis-
 ation and its accompanying corruption? Here, it needs
 no words to say, we are in another and a very different
 world of men, with a different retrospect, a different
 contemporary outlook, and a different prospect. The con-
 tention immediately breaks down in our hands and the
 many other possible considerations of the question need
 not trouble us. To read the prophetism of the eighth
 century into Bb. is to read history backwards. Law, even
 humanitarian law, was in the eastern world thousands of
 years before Hebrew prophecy made its appearance and it
 is little compliment to Israel, whose early religious
 uniqueness is admitted by many critics, to imply that
 it could reach no very lofty moral ideal until it heard
 the prophets thunder it in their ears. Prophecy, great
 as it was, was not the all-powerful thing some would
 represent it to be. It was not equal to the task of
 suppressing the ritualism that eventually overshadowed

it. And certainly the prophets did not in one breath create the moral ideal and the old law, which is the practical implication of this criticism of Bb. What they constantly did was to make as plain as human utterance could, that the people were breaking the law. They perpetually reminded the people of the covenant made with their fathers long before and their glaring breach of inherited loyalty. In short, the prophets built upon the law of Yahweh and nothing else; for His contemporary word to them was in the same sense; and the only past law that they could build upon, and appeal to, was for all the greatest of them the law here before us; and for the latest of them, the same law - in a developed and expanded form. Bb. anticipated the prophets by long centuries and to state that Bb. owes its being or its expression to 'prophecy' is a *ὑστερον προτερον* beyond a doubt of the most glaring character and the idea is not intelligent. Behind Bb. was a prophetic spirit in every best sense of the term but it was the spirit of him to whom it was said: "I will raise them a prophet like unto thee and will put my words in his mouth; and he shall speak unto them all that I command him." Israel's laws "constantly incorporated the ampler principles enunciated by the nation's inspired prophets", (Kent. op. cit. p. 11) but this element was not due to them and was not a "new" one in the eighth century, for, as there were Reformers before the Reformation, so there were Prophets before Prophetism and the "new" element which makes Israel's

'uniqueness' came in with Moses.

The social background sketched above presents some aspects which bear upon the date of Bb. and may be left for later reference; others may be best mentioned in the course of the following paragraphs.

The ethical standpoint of Bb. is notably high. Whether we consider it purely as an early portion of OT. literature or in comparison with the known legislation and the (unexpectedly) advanced civilisation of other ancient peoples, this fact is impressive.

But as before we find that so far as the OT. is concerned, this high standard is held to be an imported one. This position is held by Baentsch as we have seen in dealing with the passages whose justifiable place in Bb. he has disputed. And of course he does not stand alone. As another voice representing at the same time the alleged superiority of other nations in this respect, Cook may be mentioned, who remarks in the common vein but with rather uncommon definiteness ('Laws of Mos. & Code of Ham'. p. 145): "The original Book of the Covenant does not interest itself in her (the widow's) behalf, in marked contrast to the humane exhortations of the Code of Deuteronomy." This is the whole opposition to the humanitarianism of Bb. in a nutshell. We have had good cause to conclude that the very words he refers to belong to the literary essence of the document and must have been written by the same hand that wrote the surrounding verses. But it does not require any reliance at all on disputed passages to

present the native and inherent humanitarianism of Bb. as unquestionable. I have no desire to maintain the polemical attitude though that is in the nature of the case often unavoidable. The topics will be taken as they arise and the treatment must be brief, which will be all the fitter as some of the topics are dealt with under other heads.

A remarkably high ethical standard for example, is to be observed at once in connection with the penalties attached to offences. Practically there are but three of these: death, retaliation, and compensation. There is perhaps an appearance of harshness in the infliction of the death-penalty for kidnapping, for neglecting to confine an ox that has already caused a person's death, for striking or cursing parents or for sorcery; but only, perhaps again, to the most modern Christian sentiment, for not so many years ago in this country the death-penalty applied to a much wider and pettier series of crimes. Then as the executive, if it existed, was decidedly weak, it may be honestly held in this case that the penalty attached was more of a deterrent than an actual punishment. On the other hand there are no degrading punishments - no torture, no bastinado; strange to say not even confinement or prison. Great stress indeed is laid upon arbitration as a medium for the settlement of disputes and no fewer than four times is the quaint and yet to all appearances sacred phrase used of "bringing before God" cases that were hard to determine but found solution in the sanctuary. It is indeed in con-

nection with the penalties most particularly there emerges a sense of quiet administrative benevolence that is more or less characteristic of the whole code, and that requires in response, a sense of individual responsibility on the other side.

The *lex talionis* (although the Latin term is an anachronism) was conceived as dealing out legitimate vengeance. It was common to all ancient legal systems and, as we shall see, was more harshly applied in some of these than in Bb. It appears to carry special emphasis here, but that is to be explained otherwise. (See p.86 sup.)

The code is apt to be misread as to the position of woman generally at the period. ^{מִצְוָה בְּיָדָהּ} looks an uncompromising phrase in connection with marriage, but it should be noted that it is in connection with the slave-community it is used. Indeed almost the only women mentioned are the special class of 'slave-wives' who are in a grade above the ordinary slave-community. In the other cases two are under the protection of the law - the injured woman and the seduced daughter; only one class is under the ban - the sorceress. Women have no rights of property but it is very questionable whether they are considered as property.^② The (nominal) 'purchase-money' is paid to the father on that account and not because he 'owns' her. For the rest there is no mention in the code as to how the wife of a sheik or of an ordinary Israelite was regarded by him in this respect. We cannot conclude with certainty moreover,

^②See p.60
supra.

from the rule enjoining the presence of all males at the feasts that the women were absolutely debarred from attendance. If "the Israelites directly contemplated in these laws are evidently men of independent bearing and personal dignity such as are still found in secluded parts of the Semitic world under a half-patriarchal constitution of society where every freeman is a small land-holder," it may legitimately be inferred that the women who shared their life shared also their qualities and were capable of presiding worthily over such home-life as made the Jewish distinctive in not a few admirable features. (Kennedy. 'Education'. HDB. 1 vol. and other Arts.)[@] The very rare word מִשְׁפָּטִים needs cautious rendering. Humanitarianism pronouncedly characterises

[@] Cf. Gressmann, 'SAT' II. 1. p. 231.

the slave legislation from first to last and Rothstein draws attention to the special interest of the law-giver in the slave, marked by his setting this subject in the very forefront of the mishpatim. ('Bundsb' p. 8). All slaves, male and female, married and unmarried, are to be freed after six years service. There seems to me no doubt about this, though Robertson Smith, Driver, and many others emphatically assert the opposite. The former says: "Women slaves were slaves for life;" the latter, "the law for female slaves is different. A female slave does not receive her freedom at the end of six years. V. 7." This is a serious misreading of v. 7 (ch. 21). וְהָיָה בְּעֵדָה at the end is common gender. The LXX. might have put them on their guard with its $\delta\omicron\upsilon\lambda\alpha\iota$; thus the female slaves are included. The reference at the beginning of the verse

is to the slave-wife, and the interesting fact is (apparently here for the first time!) discovered that there are only two exceptions to the universal emancipation of the slaves male and female in ancient Israel, namely, 1) if a man sold his daughter to be a slave-wife of a master or a master's son; and 2) if a master gave a slave in his service a wife; she and her children were the master's 'in perpetuum' and so was the slave himself if he resolved to abide by them. (v.4). This is all so clear on the face of the legislation that it seems incomprehensible how such authorities could be so completely misled. But this feature lends a new emphasis to the humanitarianism. On these verses (4-6) Prof. Keane wrote in the Hibbert Journal (Oct. 1905): "I often ask myself, Is there any intelligent being who really believes that these are inspired words, that this atrocious outrage on the most sacred feelings of humanity is a Divine injunction?" The professor's studiedly written outburst is sheer waste of moral indignation and tempts obvious rejoinders; for, given a state of society in which slavery existed at all, it would be difficult to exceed the solicitous consideration with which the slave is in this whole code surrounded, - liberty for a tooth; liberty for an eye; provision for one complete day's rest every week; and obviously and inferentially much other consideration suggesting a family rather than a strictly servile relationship to his master. And it is needless to say that in this respect the code will bear with ease the burden of com-

② See note at
at end of
chapter.

parison with any other. (Cf. Cook. 'Laws of Mos. & Code of H.' p. 163f.)

Older and rigorous institutions come under the review of the legislator and are here modified in accordance with his humaner spirit. This is evident particularly in the case of the ancient blood-feud. Special provision is devised for the man who by accident - or is it to be called an 'act of God'? - has been the unfortunate cause of another's death. In the new land a 'place' - not the altar - will be appointed as the objective of his flight. (Welch. 'Code of Deut'. p. 136ff.)

The Sabbatic Year, which according to Milman ('Hist. of Jews'. p. 143) was a remarkable instance of departure from every rule of political wisdom, was instituted entirely, so far as the document expresses itself, in the interests of the poor and, secondarily, of the wild animals. The latter touch surpasses Deuteronomy!

The very language in which the law of the Sabbath is composed, Dillmann holds as we have seen, to be conclusive as to its originality in this document and that it is introduced for humanitarian reasons is plain upon the face of it. (See p. 78 sup.)

But the same motive receives an outstanding and peculiar emphasis in connection with the treatment the people are urged to give to widows and orphans. It is the only law with a minatory conclusion and this conclusion again is the only one in which Yahweh himself threatens to exercise the *lex talionis*.

The attitude of this legislation to the poor may be said to have attracted the attention

of the world. In the prohibition of the taking of interest from the poor this code attains admittedly an ethical superiority which distinguishes it from all other ancient codes. Gressmann indicates this in comparison with the Code of Hammurapi. ('SAT'.II.1.p.231). Moore ('Ex.'Enc.Bib.1447) says much too casually that Bb.may be specially compared with the legislation of Solon, to which it is probably not much anterior in time. The resemblances have to be searched for, although as it happens both deal with the subject of interest. Solon's first and chief public achievement, however, was, it seems, to ensure that no man should henceforth take the body of his debtor as security for his debts. This is again another atmosphere. Here the prohibition is absolute and there the exaction goes on as before only with added safeguards. (Plutarch.'Solon'.Greek 'Lives'.p.52ff. Langhorne.) And here the prohibition is universal, while in D.it is relaxed with regard to the foreigner. The word ~~ἄνθρωπος~~, moreover, cannot without violence be taken as meaning 'exorbitant interest' and when all the facts are fully weighed it will be found that probably nowhere else is any legislation known that contains such a law as this. And its purpose was to protect the poor.

This and the accompanying law of the pledge (the latter both in its purpose and its expression) indicate a power on the part of the legislator, rarely if ever found again in his class, to put himself in the place of those whom his law needs most to protect.

Respect of persons is definitely forbidden, although, unless a too facile change is to be made in the text, it is the poor and not the great man who is not to be favoured. So the law-maker's mercy for the poor is tempered with justice!

Further, the legislation pays double attention to a class that was perhaps likeliest of all to suffer injustice, its interest in whom is an attractive feature that lends it a peculiar grace. $\gamma\lambda$ is a word and the $\gamma\lambda$ himself is a personality of great interest. His appearance and treatment here are highly suggestive. At the beginning of its national history Israel throws the mantle of its special care and protection over the "incomer" from another nation - Israel, that was to become a by-word in the world for its exclusiveness! It does so because it knew by experience what being an incomer and a settler meant for itself. It is not long since these people left Egypt. The reminder stands out from the document almost as if we heard the words spoken.

This is, rightly read, a clear indication - so natural and unstudied is the reference - that the words were addressed to people, some of whom, at least, remembered the experience. Otherwise they lose practically all their meaning and the document another fine touch; as, indeed, it seems to be the fate of Bb., for one reason or another to be robbed of all its peculiarly human and humane features. And this thought for the $\gamma\lambda$ is one of these. He might 'come in' for this reason or for that; he might be a peaceful traveller or trader, or a haunted victim

of the blood-feud; he might come for a time or he might come for a life-time; he might be a negligible social figure in the land of his adoption, or he might be a man of consequence; he might be but an individual addition to the civil community, or he might be a proselyte to Israel's faith; he might even come in bands or a tribe (W.H.BENNET. Art. 'Stranger and Sojourner'. Enc. Bib.);

but all through, whether he had restricted rights or none at all from the legal point of view, he was under such protection as the lofty 'noblesse oblige' of Oriental guest-rights, supplemented by such spirited regulation as this, made a matter of conscience and a sacred duty.

It is hardly possible not to see here a reflection of the love at the heart of God for the men of all nations, a truth which Israel's exclusiveness again suppressed; but whatever its after conduct was, the attitude here defined and motivated as it is by humanitarian considerations, is at once unmistakable and pleasant to contemplate.

Surely few things can be clearer than the fact that the humanitarianism of Bb. is indigenous and not borrowed and more particularly not borrowed from a later period. After all it is not so surprising that it should be found where it is and but for the Deuteronomic obsession the critics might have been glad, had they known, to ascribe it, say, to Hammurapi, who, though he expresses himself somewhat egotistically, was evidently inspired by a genuine feeling for humanity in framing his famous legislation. "The laws of Hammurapi", he says, "consist of laws of righteousness which he, the mighty

and just king has established for the advantage and benefit of the weak and oppressed, the widows and orphans..Let the wronged but breathe freely again and say:Here is a lord who is like a just father to his people."

But humanitarianism as ordinarily conceived is not all that is found in Bb. In one final and amazing regard, the document seems to anticipate the exceptionally high ethical standard of the Sermon on the Mount. The references to a man's enemy are very deliberate, in two consecutive verses, 23:4, 5. It seems highly probable that there is even a third, in v.6. Every argument of agreement and connection that criticism ever suggested might be justly urged in its favour. Though much tempted, I have not adopted it because the sense is good as it stands. For the rest there appears no word to be suspected or questioned in the text itself. All this is, of course, incredible to Baentsch who can do nothing with it but ascribe it to D. We have yet to learn of any reason why it should be removed except that he thinks so. But is not the only just course also the saner - to allow Bb. to speak for itself? It has proved its own right to do so for it has shown itself unmistakably and inherently humanitarian in every genuine passage, which apparently neither objectors nor friends have taken the trouble sufficiently to examine; and in every disputed passage as well - disputed because they were only perhaps rather more so. Without very convincing

reasons to the contrary, and these are not here to be found, all critics and all readers must stand by and let the document reach its own height and when this is done, it is observed that here a level is reached that does not fall far short of that of the NT. where we find the sentiment that may in its greater fulness have been suggested by this law, expressed in the words: "Love your enemies", and "If thine enemy hunger, feed him; if he thirst, give him drink."

This Book of the Covenant has never been adequately appreciated on its own merits. Standing at the very beginning of the legal, if not of the general Literature of the OT., the first human document of the Bible, it reaches an astonishingly high spiritual and ethical level. Confessedly Prophetic in spirit, it anticipates the Prophets by centuries; confessedly Deuteronomic in spirit, it anticipates Deuteronomy by centuries more. It is hardly too much to say, Christian in spirit, it anticipates Christ; and the language in which it is introduced may well be taken, except by those who scoff, as at the least symbolic: "Ye have seen that from Heaven I spake with you."

No one can read the book, setting it apart as has been done here and viewing it in and by its own light first of all as is its due, and not be impressed with the fact that it is astonishingly modern in conception. The epithet 'primitive' needs careful definition and use. It is easily misapplied. Its connotation is more qualitative than temporal. It does not always

mean 'ancient'. Cook has observed this and has justly shown that the primitive may persist in a modern environment. ('Laws of Moses and Code of Ham.' p.39f.) But he does not add that the word must be defined positively as well as negatively. And we may well ask what proportion of the laws in Bb. have any real grounding in purely primitive ideas?

The totemistic idea is truly primitive, for example, that the god resides in the stone which is set up beside the shrine, or perhaps we should say, that constitutes the shrine. But what proof is there of the existence in the mind of this legislator of such an idea? Is it not requiring to be imported? Originally, thousands of years before, if that is long enough; or alternatively, at the same period but under other skies and among people, say, of another colour; the primitive idea might easily be recognised as such. But in the hands of this - as we know him from many other indications to be - intellectually emancipated law-giver, the provision not to ascend the altar in ordinary Oriental costume by steps may quite possibly have been actuated by nothing more or other than ordinary, or, at most, reverential decency. That was no doubt all that had remained of the 'primitive' idea. If this is not conceded, then we must be prepared to ascribe the same totemistic conception to the Romans - which brings us up to the dawn of the Christian era - for their cult too forbade the officiating priest to bare the leg. (Dillm. 'Ex. & LV.' p.225). How much more would the injunction be necessary where any man might be a priest.

The blood-feud may be cited in this connection; but while that is an ancient custom, it is not necessarily a 'primitive' idea at all.

Again, though the phrase 'before God' is paralleled in the Code of Hammurapi, the conception and the practice especially which is implied, may be worlds apart. The whole story of Israel in OT. shows that there we are among a people many of whom, especially the leaders, possessed the power of clairaudient and clairvoyant perception in a highly developed form and many of the narratives are intelligible only on this hypothesis. (St. Clair Stobart: 'Ancient Lights: the Bible, the Church and Psychic Science'. F.W.H. Myers. 'Human Personality and its Survival'.) Their 'inquiring in the Temple' may have had a larger content than modern western minds conceive.

So even if it could be proved that the sacrifice of the first-born is demanded in Bb., which may have to be left an open question, for the language of the text is not to be forced either way, the idea behind it might be far from 'primitive'. There is no larger or grander idea possible perhaps to the modern or any mind than that redemptive energy, whether in God or man, demands the sacrifice of one's best and dearest. This is the chief truth that lies behind the story of the sacrifice of Isaac; and this is the truth that individual and national experience has, surely with tremendous emphasis in recent years, taught the world.

If again sorcery be 'primitive' then

Britain and indeed Europe were very 'primitive' little more than a century or two ago. (Art. 'Witchcraft'. Enc. Britt.)

But the primitive idea may be said be inherent, if nowhere else, in the last regulation in the code, concerning the boiling of a kid in its mother's milk. Many explanations of the prohibition have been attempted but without success. Fraser ('Folk Lore in OT'. III. pp. 111-164) has given a remarkable expansion to the knowledge of primitive customs among innumerable barbaric tribes and has thrown as much light as is apparently possible upon the topic before us when he shows that among African tribes, especially the Mazai, to boil a cow's milk injures the cow by 'sympathetic magic'. But even to mention in the same breath, as he does, these barbaric African tribes with modern Jews in any sort of connection with the custom is surely to confound absolutely dissimilar civilisations to say no more. There can hardly be in the mind of the modern Jew when he refuses to allow milk to touch flesh or to be eaten together, any idea of sympathetic magic now, and, judging from the general elevated outlook of this law-giver's mind as revealed in the document, it is more than likely that the idea was as far to seek then.

The boring of a slave's ear was also, according to the same authority (Op. cit. pp. 165-269), a magical rite to indicate complete possession; but it was not necessarily a magic rite in Israel's economy, or in its literature, where the only other reference

outside the laws is symbolic (Ps.40:6) and it is not reasonably necessary to think otherwise about the custom referred to in this legislation.

For more reasons than one, and in more aspects than one, the idea that Israel was either a 'primitive' people or an 'ancient' nation has to be abolished before we can read its history or its legislation aright. So lofty is the sweep of the legislator's mind that we are justified in thinking it possible that these phrases were used, these aspects of truth and custom conceived in a manner that threw their 'primitive' character far back into the shade of previous history.

This book stands today, as it did in its own day, as a prime and potent plea in the name of God for the simple life of faith, for purity of worship, for solicitous consideration for man and beast, for just and friendly relationship between master and man, even for the high duty of caring for one's enemy. It presents such a cult as passed muster with the prophets as spiritual in its nature. It was recognised as spiritual by the prophets themselves, for this was the only code most of them knew and they declared that Moses taught no ritual. It is practically free from every tinge of anthropomorphism and what little there is of that need not lack able apologists (F.D. MAURICE. 'Doctrine of Sacrifice'. p.26f. Hermann. 'Eucken and Bergson'. p.174), and compares favourably with later codes in this respect (Delitzsch. 'Babel and Bible' p.188f.). It is no wonder that its high moral and spiritual conceptions

should have made Israel's Law and Law-givers famous, (Gressmann.'SAT'.II.1.p.234); but of all these possible law-givers the earliest one must have been the greatest! That his legislation did not remain a dead letter is plain from its subsequent influence.

Before leaving the subject of characteristics, a note may be made of those elements in the code which would almost justify its description as 'the code of origins'.

1. Of the emergence of the Yahweh-religion for the first time no direct inference seems possible but the earliest system of worship (that is known to have received legal sanction - or what may be so called -) is here.

2. The first mention of 'sanctuary' places, a notable feature of the later economy, is found here.

3. In the phrase 'holy men' is doubtless to be found the rudimentary conception of H., the Law of Holiness. (22:30).

4. In the prohibition of the eating of beast-torn flesh lies the beginning of the idea of 'clean and unclean' foods, if not other things also, that was to receive such conspicuous elaboration in future codes, especially, D and P.

5. There is also found here the simplest and rudimentary form of a noble theme which finds utterance in no other code. It is in the framework of J" but it is notable again that the legislator of Bb. should have set it in the body of his laws. "For I am gracious." (Further under 'Subsequent Influence').

6. Last, but perhaps not least for the OT. student, it may be said that we have in connection with Bb. the origin of the technical use of 'debarim' and 'mishpatim'.

Note on אִשָּׁה and אִשָּׁה (p. 145 f.)

I hardly realised while writing the text of the last chapter the significance of the 'discovery' there made. I took the distinction between אִשָּׁה and אִשָּׁה for granted; but when one reads a paragraph as late as that of Harford in Peake's Commentary, p. 186, it is evident that the prevailing critical position on the subject is riddled with misconception.

It is obvious that Harford has not sighted the real situation when he speaks as he does of the slave so loving his master that he "could become a slave for life" as if that were a prize! The reason the idea of remaining ever enters his head is because he cannot take his wife (and children) with him. "A female slave had no such right", he asserts. A female slave, married or unmarried, was liberated like the male slaves. It was only the אִשָּׁה who "had no such right". That is the clear situation in Bb.

In D. the situation is equally misconceived. The advance marked there is two-fold, but what that advance consists in has never been observed. Needless to say now, it does not at all consist in the granting of liberty to the female slaves; for they were liberated by Bb. Again the understood אִשָּׁה (Dt. 15:15) is common. That is very clear in vv. 12, 13, as it is in Bb. 21:7 (plu.) and the two-fold advance consists in this that now any slave, male or female, not only the man who had married a slave-girl given him for a wife by his master (as in Bb.), could remain in perpetuum, if he or she wished; and secondly, the אִשָּׁה (not, as Driver, 'thy bondwoman'), specially mentioned and legislated for by D. (15:17), is put on an equality with the others in this respect and therefore is now granted the freedom which was denied to her in Bb.

It cannot be too strongly insisted upon that אִשָּׁה is in no sense a feminine of אִשָּׁה; or a synonym of אִשָּׁה. It is another and a different concept.

It is perfectly clear from the opening verses that Dt. 12-17a is dealing with the Hebrew slave male and female. When the word אִשָּׁה is used unexpectedly, it should be at once recognised that a new concept is introduced. Driver in his whole discussion of the question ('Deut'. pp. 181-185) gives no indication that he considers it anything but a feminine of אִשָּׁה.

CHAPTER V.

THE BASIC PRINCIPLE.

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LXX. Vulgate. Luther.

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Gesenius-Kautsch: Hebrew Grammar.

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Wellhausen: 'History of Israel'.

Gressmann: 'Die älteste Geschichtsschreibung und
Prophetie Israels'.

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'Religion of Israel under the Kingdom'.

'Jeremiah'.

Smith: 'Jeremiah'.

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'High Place, Sanctuary'

HDB.1 Vol.

Orr: 'Problem of the Old Testament'.

CHAPTER V.

THE BASIC PRINCIPLE.

The aim of this chapter will be to prove that, as indicated above, p.129, the basic principle of Bb. as commonly understood and long accepted, rests upon a complete misunderstanding and misinterpretation of the terms of Ex.20:24.

As in the case of the alleged 'centralisation' principle in Deuteronomy, which Dr. Welch has recently and so ably challenged, the above principle also, as all the world knows, has been a 'chose jugée' for the matter of half a century; and it may be only just to all parties to say that I had arrived at the conclusions of this chapter before the publication of his work.

It is needless to emphasise the common interpretation of this verse by particular citations from all or any previous works or workers on this portion of the Pentateuch. Details will be introduced as the need arises, but it may be said that the common interpretation rests on the translation represented by both English versions: "In all places"(AV).."In every place"(RV) "where I record my name, I will come unto thee, and I will bless thee." But it is not, of course, a question of reposing confidence in these versions only; for the trans-

lation is in the same terms in every language known to me. The LXX., the Vulgate, Luther's and other German versions, Segond's, the Italian, even Moffatt's, the latest, all-word for word except the last and he, in effect, give the same rendering, and all commentators seem to have adopted it with one and common consent. Nothing in the wide storm-centre of Pentateuchal criticism has provided such a peaceful oasis of absolute and unbroken calm as this verse. It may seem bold for a tyro in criticism to challenge such unexceptional testimony and mayhap to disturb the unanimity, but truth is sometimes unexpectedly revealed to a fresh mind and in any case it appears to me that here again, as so often happens, truth lies not with the majority. I make my appeal not to any vapouring theories, but to the hard facts of the laws and usages of the OT. language; to the admissions of scholars themselves; to the already established character of Bb.; to the historical situation; and to ordinary good sense. And I submit at once that the rendering ought simply to be -

"In the whole land where I will
cause My Name to be remembered
I will come unto thee and I will
bless thee."

This rendering seems to me to say everything that the Hebrew says and nothing either less or more. The usual translation says both more and less and creates difficulties and obscurities which are really non-existent.

*whenever I choose to
be remembered*

First of all, the phrase בְּכָל־הַמָּקוֹם has been erroneously rendered 'in every place'. Secondly, the wrong meaning has been given to מִקֵּץ , a word easily capable of bearing another general sense. Third, the word אֶזְכִּיר has been mistranslated and misinterpreted; and fourth, this has necessitated the introduction of a restrictive consideration which is supplied per favour of the commentators but which is purely gratuitous.

These statements will be substantiated in detail.

First, the use of כֹּל with the article must be determined decisively. Briggs states rather casually in this connection ('High.Crit.of Hex,' p.212), -
 " בְּכָל־הַמָּקוֹם in accordance with the rule of כֹּל with the article must be translated 'all places'."

It is to be noted that מִקֵּץ here is in the sing.form. According to Hebrew usage, then, it must be translated either as a singular noun or as a collective noun. There is no other alternative. Now if it is here sing.and not collective, Brigg's statement is incorrect.

The rule of כֹּל with the art. as stated by Gesenius (Gram.Sect.111.1), is unmistakable and justified by all Hebrew usage. "This explains", he says, "the use of the article after כֹּל prop.' totality, the whole'. The art.is inserted after it to express definitely, 'all, whole' (like 'tous les hommes, toute la ville'), and is omitted when it is used indefinitely for 'of all kinds' 'any thing', or distributively for 'every' (tout homme, a tout prix). (So in Greek: πᾶσα ἡ πόλις , the whole city, but

πᾶσα πόλις, every city.) e.g. כָּל־אָדָם, 'all men', כָּל־אֶרֶץ, 'the whole earth', prop. 'the whole of men, the whole of earth'; but כָּל־אֲבָנִים, 'stones of all kinds', 1Chr.29:2, כָּל־דָּבָר, 'any thing', Ju.19:19, כָּל־יּוֹם, 'every day', Ps. 7:12."

It will not take us long to see how fully honoured the law is in Bb. itself. Here there are eight instances of כָּל with a noun.

- 1.20:24. The passage in question.
- 2.22:8. כָּל־פְּשָׁעִים : Anarthrous: indef. & distrib. 'any' or 'every' manner of trespass.
3. " " . כָּל־אֲבֵדָה : Anarth., indef., & distrib. 'any sort of lost thing'.
4. ":9. כָּל־בְּהֵמָה : Anarth., indef., & distrib. 'any sort of beast'.
5. ":18. כָּל־שֹׁכֵב : Anarth. indef. & distrib. 'any or every one that lieth.'
6. ":21. כָּל־אַלְמָנָה : Anarth., indef., & distrib. (with negative following) 'not any widow'.
- 7.23:27. כָּל־עַם : With art. Obviously a collective noun: 'all the peoples'.
8. " " . כָּל־אֹיֵבֶיךָ : Anarth., indef. & distrib. 'any or every one of thy foes.'

These are all the instances of the use of כָּל with a noun in Bb. In six of these כָּל is anarthrous and in every case without exception the sense is indefinite and distributive according to the rule of the language so clearly expressed by Gesenius. In a seventh case the word is clearly collective and the eighth case remains. According to what we have seen then, there can be no doubt that the proper translation of כָּל־הָאָרֶץ is 'the whole place'. No Hebrew scholar would dare to refute it. If he were convinced that this phrase must mean 'in every place', he would remove the article before he would do violence to the laws of the language. And this is exactly what Baentsch proceeds to do! In his 'Hand-Kommentar' in loc. he says: "The art. before כָּל must be

deleted. כָּל־הַמָּקוֹמִים means 'the whole place', but not 'every place', which is certainly meant here." If his correctness as an exegete may be questioned, his reputation as a Hebrew scholar is secure! Briggs therefore is at fault in his statement. He should not have said 'must be'. It is only in a certain contingency that כָּל־הַמָּקוֹמִים must be translated 'in all places', and the contingency is - if the word מָקוֹם is a collective noun; and nobody ever seems to have given it a thought whether in this passage it is collective or not. As a matter of fact, as I think it will appear, it is not.

The law of כָּל with a collective noun is stated with equal lucidity by Gesenius (Sect. 108.1) who, in classifying words that are plurals although they do not bear the plural ending, mentions nouns "which have the proper significance of the sing. but which are also used as collectives, as אָדָם , אִישׁ , דָּבָר , אֱלֹהִים . These words take the article when all the individuals of the class are included."

The question then to be faced is whether מָקוֹם is here to be taken as sing. or collective. It is a point of no little interest considering the weight of the superstructure that has been built upon one use of it. We turn rightly to OT. usage to inquire.

I find there are 25 uses of כָּל with the word מָקוֹם in OT. In 15 cases, however, the word is in the plural and therefore there is no difficulty whatever as to their interpretation. But this is significant in itself. The following are the ten remaining

cases in all of which מקום is in the sing.

1. Gn.20:13....אשר בכל מקום אשר Art. 'in the whole region whither we shall come'. (EV. 'at every place'.
2. Ex.20:24. Passage in question.
3. Nu.18:31....אכלתם אתו בכל מקום :Anarthrous & distributive. 'and ye shall eat it in any place.'
4. Dt.11:24...בכל מקום אשר תדורך : Art.; totality. 'in the whole region wherein your foot shall tread.' (EV. 'every place'.) Correct sense clear from following verse.
5. Dt.12:13...בכל מקום אשר תראה : Anarthr. and distrib. 'in any place thou seest.'
6. Pr.15:3...בכל מקום צריך יהיה :Anarth.& distrib. 'in any (and every) place'.
7. Is.7:23...בכל מקום אשר יהיה שם : Anarth.& distr. 'any and every place where there shall be'.
8. Am.8:3....בכל מקום :Anarth.& distrb. 'Corpses (anywhere and) everywhere.'
9. Mal.1:11...בכל מקום מקטיר :Anarth.& distrb. 'in every place incense is offered..'
10. Jos.1:3, as Dt.11:24.

There will be no need to insist on my

rendering of the first and fourth of the above cases.

It is quite clear from the context that it is the whole region in which they are to wander that Abraham means in his suggestion to Sarah; and just as clear that the EV^V have been betrayed into another slip. In case there should be any doubt, however, it is only necessary to turn to the fourth to observe a similar construction reinforced by an explanatory interpretation in the next verse.

These are all the occurrences of כָּל with ^ומקום in the OT. What, then, do we gather from this investigation? We gather that when the Hebrew language wishes to express indubitably 'all places' and 'every place' it can do it, and it does it, in two ways and in two ways only. It uses either 1) כָּל with the plural, which it does 15 times; or 2) כָּל with the anarthrous

sing., which it does 7 times. What it never does is to express it with the article and the sing. as a collective noun. On the sure ground of the unquestioned and unquestionable laws of the language, and of the universal usage of OT. it can with confidence be said that it is simply impossible that בְּכָל־מָקוֹם can mean 'in every place' here.

Second. A wrong meaning has been persistently given to the word בְּכָל־מָקוֹם ; and this in two distinctive and pronounced ways. The first is decidedly the stranger of the two.

A. A special significance has been imported into the word which it cannot carry and which it should not be called upon to carry. This special sense is made as clear as can be in a note by Dr. Welch in his 'Code of Deuteronomy', p. 25. "The בְּכָל־מָקוֹם (Dt. 26:2), is not any casual place, it is a holy place, made holy through Yahweh locating His name there. It is the Arabic 'makam'." That the same significance has been read into the word here is evident from the traditional interpretation, and either this fact, or the misrendering of בְּכָל־מָקוֹם , or both, are responsible for the grave restriction referred to, which has been laid upon the comprehensive intention of the whole statement.

It is dangerous, as I have said above in dealing with the word מָקוֹם , (p. 136) to read, after its adoption, exactly the same connotation into a single word which has been assumed into the vocabulary of another nation. And whether or not this word has been adopted,

and I see no sign of it, the only way in which we can verify the real sense in which it is used is to observe the meaning or meanings it bears as and when employed by the Hebrew writers of the OT. This is a task of some proportions with such a common word as *ḥayyā* happens to be and, apart from an initial presentation of the general aspect, we must confine the discussion to the immediately relative topic.

ḥayyā occurs close upon 400 times in OT. It has the following meanings and is so translated in the English versions:- 'place' (vast majority of times); 'room' (to lodge in; Gn.24:23,25; for camels, Gn.24:31); 'country' ('must not be so done in our country', AV; 'place'-RV. Gn.29:26); 'home', ('went to their own home': 1S.2:20); 'space' ('a great space between them': 1S.26:13); 'whithersoever', (*ḥayyā* אֵיפֶּיךָ, merely adverbial: Est.8:17). The reference implied in the general rendering 'place, (locality, position, spot)' varies according to circumstances and may be town, city, region, country, home, dwelling-place, bed, seat, —anything. It is one of the most general terms in any language and often, the most indefinite. It is therefore not only probable, but inevitable that it should connote among so many other things a 'sacred place'. And on this very account, the writers never leave us in any doubt in the matter. When they are speaking of a holy place they always indicate it by either the name of the place, or the use of an adjective, and if it is unnecessary to repeat this on every mention of it, in the same passage, the context invariably

shows what they intend. If none of these things is done, the word must be given its ordinary meaning of 'place, locality', and this a study of its uses makes plain to anyone who will take the trouble involved.

Even when it is used along with the name to denote a prominent sacred place, the meaning may be the ordinary one as often as not; e.g., 'he called that place Beersheba', Gn.21:31. It is clear again that if *nīpā* is to be taken as self-evidently signifying a 'sacred place' there would be no need for such combinations as 'the *nīpā* of the altar' Gn.13:4. The writer is, of course only indicating the locality of the altar to which Abraham returned at Bethel. He is saying nothing of the 'sanctuary' of the altar and he would not say it that way if he meant it. (Cf. Jer.17:12, noted *infra*).

So in the story of Jacob at Bethel, which all who hold this view would certainly claim displays the 'Arabic makam' conception, the word in all its occurrences, may be just as naturally and, indeed, much more naturally interpreted in the ordinary sense of 'place'.

In Leviticus the word is used 23 times but never of the shrine without the addition of the word 'holy'.

Deuteronomy is full of direct references, it may be said, to the place or places where Yahweh has located His name but surely Dr. Welch's theory as well as his language essentially involve the idea of 'locality' primarily and that of sacredness only in respect of the proper (Yahweh-) religion, and therefore second-

arily, if at all. On every occasion of its use the common significance of 'place' is valid and sufficient.

The references even to the Temple in the Books of Kings and Chronicles are all expressed in the same fashion, - 'place', essential; 'sacred place' optional.

It is when we come to Jeremiah, however, that those who hold this specialised sense of *מִקְדָּשׁ* as the proper one insist most upon the theory. Here the special significance is actually erected into a criterion for the genuineness of the text! Only the passages which bear that sense are legitimate; those in which it has its ordinary, natural, and obvious significance must be cast aside.

The text of Jeremiah appears to be notably uncertain. I think we shall see that the circumstance need not enter into our consideration. Principal Sir George Adam Smith ('Jeremiah' p. 148. note) says: "Duhm and Skinner remark on an apparently incoherent association of Place (-'Holy Place') and Land in 7:3-7. The clause about the Land may be a later addition." In his translation he uses the capital P with 'place', the purpose of which is obvious, and brackets as suspicious all portions of the text where the word would apparently carry its common sense.

Dr. Welch in his handbook on the prophet ('Jeremiah' p. 27), also rejects a portion of the passage with the explanation that "an editor, took the 'place' to be the country or city, and not the Temple."

One would imagine, then, that good reason

had been shown why *מִקְדָּשׁ* should bear in Jeremiah the technical sense of 'holy place'. This, of course, has never been done for the simple and sufficient reason that it would be, and is, impossible to do it.

In Jeremiah's prophecies the word is used 46 times. I have examined these 46 passages in detail, and in not one single instance is it possible to find the meaning of 'holy place' or Arabic makam, and the only way to make it bear that meaning is to force the plain sense of the context.

The results of such an examination are indeed illuminating. And chiefly is it notable first that in all the 46 cases the word is used in only two or three of its many possible senses. We may call the first a) miscellaneous: including 4:7, of the lion going forth out of his place(lair)!, 13:7, of taking the girdle from the place(spot) where he had laid it; 7:32 and 19:11, of no place(room) to bury.

b) Of the other 42 uses 40 are translatable and only, in the light of the context, intelligently translatable, in the sense of 'land, region, country', and nothing else.

c) Thus there are not more than two indubitable references to a 'holy place' and in both of these we are told that it is a holy place, - 7:12: "Go ye now unto my place which was in Shiloh," and 17:12: 'the place of our sanctuary', *מִקְדָּשׁ מִקְדָּשׁנוּ*, probably not 'the sanctuary of our sanctuary' any more than *מִקְדָּשׁ*

מִזְבֵּחַ (supra p.167) was 'the sanctuary of the altar', for there is need to indicate the locality but no need for a tautological reference to the sacred place; but even if it were possible for once to allow the restricted meaning here the writer has clearly made plain by the use of another and a surer word, it will be noted, that he is speaking of such a place.

In chapter 19 the reader may be initially impressed with the possibility that here at least 'this place' may have a peculiar sense of sacredness, until the prophet himself discloses that it is Topheth of which he is speaking - hardly a sacred place!

But the stronghold of the position appears to be chapter 7. In view of Jeremiah's pronounced predilection for the use of the word *בִּפְנֵי* as meaning 'land, region, country' - and out of 46 times he hardly ever uses it in any other sense - one is left wondering how any critic can speak of an 'incoherent' association, even on the part of a supposed redactor, of 'place' and 'land'. The situation is extraordinary and the 'incoherence' is on the other side, as a glance at Dr. Smith's 'Jeremiah' p.147-150 will show. By printing 'place' with a capital in v.3, he makes the impossible assertion that the people the prophet addresses can live in the shrine. He has to put 'in this place' in brackets in v.6, because the people have been shedding blood in the land and not in the 'Place'. He has to put a whole phrase in brackets in v.7 to suit the theory and at the same time, wittingly or unwittingly, he makes Jeremiah contradict his us-

ual practice. But most distressingly of all, in v. 14 he alters the substance of Jeremiah's message which is as genuinely his as anything can be, by implying as his rendering of 'Place' does, that the divine wrath is to fall in desolation only upon the shrine and not also upon the land. He identifies 'House' and 'Place'. No one will deny that the 'House' is the 'Holy Place'; but every reasonable expositor will deny that 'the place which Yahweh gave to the people and their fathers' was not the 'promised land' but the Temple. Temple and Land it assuredly must be or the history of Israel has not been written. Again the erection of a useful hint into a criterion has perverted the function of exposition. The function of the expositor is to explain existing difficulties not to create difficulties that do not exist. Criticism has done itself its gravest injustice by its apparently inveterate tendency to systematise on a too slender basis. Later I shall suggest that Jer. 7:5-7 is a citation of Bb.

B. But if the word $\pi\acute{\iota}\rho\eta$ in 20:24 does not mean 'sacred place' or 'holy place' neither does it signify 'place' in the sense of specific locality or particular spot. There is no doubt that the only proper connotation of the term as here used is 'land'.

My attention was first drawn to this interesting possibility by the simple observation of the fact that LXX. translates $\pi\acute{\iota}\rho\eta$ by $\gamma\eta$ in 23:20. There of course, the word can only mean 'land' but if in 23:20 why not in 20:24?

That אֶרֶץ does mean 'land' very frequently in OT. may stand more in need of proof than is thought; but the difficulty that lies before one in such a task is out of a huge number of instances to choose the most striking. In many cases it is used in apposition or as a parallel to 'land'. In the verses already cited from Deuteronomy (11:24,25), the whole 'place' (and so in Jos. 1:3) is described as extending "from the wilderness and Lebanon, from the river, the river Euphrates, even unto the hinder sea.....; the Lord your God shall lay the fear of you and the dread of you upon the whole land that ye shall tread upon." This really needs to be read in the Hebrew to appreciate the perfect synonymity:

כָּל-הַמָּקוֹם אֲשֶׁר תֵּדְרֹךְ עַד-רִגְלֶיךָ בָּהּ :
כָּל-הָאָרֶץ אֲשֶׁר תֵּדְרֹכֶנָּה :
כָּל-הָאָרֶץ אֲשֶׁר תֵּדְרֹכֶנָּה :

Practically all the other books of OT. are prepared to yield their quota of evidence to the investigator. Perhaps a few instances may be given as illustrating the contention with regard to Jeremiah. Passages may be taken at random. For example, "the מָקוֹם whither ye desire to go" is the country of Egypt just mentioned (42:2) and this is genuine Jeremiah! Or, "Yet again there shall be heard in this place whereof ye say, 'It is waste, without man and without beast, even in the cities of Judah and in the streets of Jerusalem .. (the captivity of the land)", 33:10. So the 'place' Babylon and (her whole land' 51:47,62. "Shallum ... who went forth out of this place .. shall not return thither any more but in the place whither they led him captive there shall he die and he shall see this land no more". (22:11).

©Cf. 32:43.
conclusive!

With Jeremiah, in short, so frequently and so intimately are the words associated with each other, there can hardly be any question that 'place' is a pure synonym of 'land'. But he has more to offer us than this. In 7:7, the passage which has been so unnecessarily marred, when we allow Jeremiah to speak for himself and do justice to his constant usage, he gives us an absolute identification of מְקוֹם with the Land of Promise.

בְּמִקְוֹם הַזֶּה בְּאֶרֶץ אֲשֶׁר נָתַתִּי לַאֲבוֹתֵיכֶם לְמֶן-עוֹלָם וְעַד-עוֹלָם:
(Cf. Gn. 13:15, and Nu. 10:29.)

Dr. Welch has definitely cleared the position in connection with 21:13(Bb.) which promises that a 'place' will be appointed for the fugitive from the vengeance of the blood-feud. ('Code of Deut'. p. 136ff). I had observed that it was only by pure inference that this 'place' could be taken as meaning the altar, v. 14. It is indubitable that the reference is to the Asylum Towns whatever the date of their appointment, and it could hardly have been long after the Settlement. But Dr. Welch throughout his unanswerable argument on this topic assumes, and he can no other, that מְקוֹם which he calls 'sanctuary' is a town, and if מְקוֹם is thus without any doubt a town and a 'sanctuary' at the same time, is there any reason why it may not be a land and (why not also) a 'sanctuary' at the same time? The 'land' was to be known as the 'Holy Land'. This would give a fine prophetic interpretation to אֶזְכִּיר and a worthy one.

It only remains to prove under this head that in identifying מְקוֹם with the whole land which

the people were about to enter I have the support of what seems to have been the usage of the Israelitish people themselves and certainly of their writers representative of all ages of their history.

In all probability Moses made the identification as he stood in the neighbouring Moab with a 'gesture' towards the land he spoke of when he said: "...the Lord thy God bare thee as a man doth bear his son in all the way that ye went, until ye came unto this place". (Dt.1:31).

The people generally make the identification in repentant mood for their previous unwillingness as they declare: "We (mean it), and we will go up into the place which the Lord hath promised." (Nu.14:40).

And the Reubenites and the Gadites do the same in language which may signify that it was a popular way of indicating the land of their adoption: "But we ourselves will go ready armed before the children of Israel until we have brought them unto their 'place'; and our little ones shall dwell in the fenced cities because of the inhabitants of the land." (Nu.32:17).

We have already seen how Joshua (1:3) identifies the 'place' geographically, delineating the borders of the land.

Nothing could be more unmistakable than the identification which Samuel makes to the people when he reminds them how "the Lord sent Moses and Aaron who brought forth your fathers out of Egypt and made them dwell in this place." (1S.12:8.)

Isaiah (14:2) makes the same identification very strikingly when he states that "the people (Israelites) shall take them (strangers), and bring them to their 'place' and the house of Israel shall possess them in the land of the Lord for servants and handmaids."

Jeremiah's notable identification heads this list.

The last and in some respects the most interesting of all is that of Nehemiah (1:9). Here Nehemiah in prayer quotes Moses' word of the Lord: "If ye transgress, I will scatter you abroad among the nations. But if ye turn unto me and keep my commandments and do them, though there were of you cast out unto the uttermost part of the heaven, yet will I gather them from thence and will bring them unto the place that I have chosen to set my name there."

These last words are intriguing. Nehemiah must mean that the people were to be brought back to their own land. If that is so he must have had the verse with which we are dealing here, in his mind for nowhere else is the whole land spoken of as memorialising Yahweh in just this way. And taking it so, it is a very notable corroboration of the principle I have endeavoured to establish in this chapter.

On the other hand, the phrase 'to set my name there' is exactly D's favourite *וַיִּשָּׂא אֶת־שְׁמִי שָׁמָּה*. Nehemiah uses it long after D and not in any possible sense of 'centralising', which seems to me a striking corroboration of Dr. Welch's Deuteronomic theory.

The more one investigates the evidence, the stronger the conviction becomes, from the definite and frequent use of the expressions 'their place' (Ex. 18:23, an early and striking use by another than Israelite; Nu. 32:7; Is. 14:2) and 'this place' (Dt. 1:31; 9:7; 11:5; 1S. 12:8; Jer. 7:7; 32:37; and 25 additional times where this sense is more justified than any other) that these have practically assumed the character of technical expressions and are used as such by the People of Israel to describe the Land of Israel. Many critical theories at least have been proposed and accepted which were built upon a much more insecure foundation.

The evidence produced in this section seems to me to establish beyond a doubt that בְּכָל־הָאָרֶץ in 20:24 must be interpreted and translated as 'in the whole land'.

Third. Because of the traditional failure to find the correct significance of the simple phrase, בְּכָל־הָאָרֶץ , the word אָזְכֶּר has also suffered violence at the hands of translators and interpreters. There is no other reason for the rendering 'where I record' which finds a place in both English Versions. זָכַר has no other meaning than 'remember' in the whole of the OT. The Hiphil of זָכַר which occurs 24 times has no other meaning than the proper and ordinary causative of the Qal., 'cause to remember or be remembered, commemorate'. The rendering 'mention' may be now and again permissible but it is never really necessary and should

never be used in any sense contrary to 'commemorate' or 'remember(me)to'. It has been allowed to slip in erroneously at 23:13,(EV) under the influence of the following expansive clause,'that shall not be heard upon thy lips'. The proper rendering is given above(p.37).

There is no reason,therefore,arising out of the word itself,nor as has been seen,out of its proper application in this verse,for giving to it any such sense as 'record'. It has its usual and its only significance of 'cause to be remembered'.

The perfectly clear and unmistakable intention of the verse,therefore,is that God is to cause His Name to be remembered in the whole Land.

Fourth. Yet this is evidently not the opinion of the most eminent and responsible expositors and critics who have ever commented on the passage.

Wellhausen,for example ('Hist.of Israel'p. 30),says "Certainly the liberty to sacrifice seems to be somewhat restricted by the added clause'in every place where I cause my name to be honoured'.

Briggs also,with much greater assurance if not with a touch suggestive of omniscience,asserts in the passage already quoted ('High.Crit.of Hex'.p.212), "Many different altars are contemplated in נִּפְאָרִים which...must be translated 'all places'. These places for the erection of altars were indicated by divine selection." Gressmann:"Wo ich dich zum Gottesdienst auffordere."

BDB.cites this passage with the explanation: 'of אֵל causing his name to be remembered,by some

here better ?
"remember" it was
20th of the
as the Hebrew
7:33 D
See his note
p 31

token'. And Moffatt, impressed with the same idea, renders: "where I choose to be remembered". (^② Orr is very emphatic. 'Prob. of OT' p.175.)

Other authorities might be freely quoted in the same vein but it seems needless to verify further what has apparently been a tradition from time immemorial. If the argument which has here been led be sound there is no need to seek for any limiting consideration whatsoever; and that which the commentators have found they have taken out of the air. That there is a restrictive clause is mere assertion; the restriction to which they so confidently give embodiment is pure assumption.

And yet the real facts of the situation have almost irresistibly impressed themselves upon the minds of scholars and investigators, to such an extent indeed that they often speak as if no restriction really existed.

One needs go no further than what is practically the very first sentence of Wellhausen's 'History of Israel' (p.17) to see that he would gladly be rid of the limiting consideration. "For the earliest period of the history of Israel", he says, "all that precedes the building of the Temple, not a trace can be found of any sanctuary of exclusive legitimacy. In the books of Judges and Samuel hardly a place is mentioned at which we have not at least casual mention of an altar and of sacrifice." On p.128 also he describes to perfection the actual situation in the period of the Judges when there was no call for the priest: "for when each man sacrifices for himself and his household, upon an altar which he im-

provides as best he can for the passing need, where is the occasion for people whose professional and essential function is that of sacrificing for others?" So he overcomes his difficulty by - forgetting it.

Dr. Kennedy also makes clear that the whole land was in effect one sanctuary, for these were everywhere. In his article on 'Sacrifice' (Hast. DB. One Vol.) he says: "As regards ... the place of sacrifice, every village had its sanctuary or 'high place' with its altar and other appurtenances of the cult, on which the recent excavations have thrown so much new and unexpected light," although he also allows the limiting restriction, quoting this verse in support. But this he practically withdraws in his Art. 'High Place, Sanctuary' (ib.), where he states that though in the time of the Judges the more famous sanctuaries .. attracted worshippers from near and far at the time of the great festivals, "it may safely be assumed that every village throughout the land had, like Ramah, its local bamah."

Either there is a restrictive qualification however, or there is not. And to posit it even in its mildest and most innocent form, that of the necessary theophany, is unquestionably to introduce a modification of the 'centralisation' principle and nothing less. It not only involves but asserts the principle that there were certain centres only at which Yahweh could be properly worshipped. But this is exactly the amount of 'centralisation' which, according to Dr. Welch, is visible in Deuteronomy. And if it were nothing more, to ad-

mit it here is to confound two systems radically distinct not only in period but in principle. It is this 'centralisation' principle that is foreign to the genius of Bb. And it is this principle that the conclusions of this chapter should dispel.

On the other hand, the admission of it has thrown wide the door to another grave and common misreading of Israelitish history in connection with the period of our study. That the Israelites could have entered Canaan with such a religion and with such law as Bb. represents and proceed at once to serve themselves heirs to the Canaanitish high places is unthinkable. From first to last it is one of Wellhausen's most assured convictions ('Hist. of Isr.' p. 17. p. 447). But it is difficult to find sufficient traces of proof of his statement to prevent us from regarding it as an 'ipse dixit'. And Dr. Welch's strictures upon the notion are still unanswered. ('Code of Deut'. pp. 211ff. 'Rel. under Kingd.' p. 12f.). On the other hand, had special places of worship throughout the land been the actual provision of Bb., these would have been sure, in the land of Canaan where the system of 'high places' was the order of the day, to prove a net of seduction and provide the very 'snare' which the law-giver foresaw would be hard enough for them to escape even without them (23:33).

The real 'centraliser' (Dt. 12:1-7) putting his case somewhat indelicately upon the lips of Moses, states it with the honest harshness of an opponent in the words: "Ye shall not do after all the things that

we do here this day, every man whatsoever is right in his own eyes." Even the 'centraliser' may be taken as a witness that no limitation existed.

It is the whole land in which Yahweh will cause His name to be remembered. Had there been no misconstruction of the previous part of the verse, it would never have occurred to anyone even to consider a possible restriction of the idea. But on the traditional view of the basic principle אֲשֶׁר cannot be properly related to what goes before. When it is applied as it ought to be, it is filled with a rare potency and promise. Taking it as it was uttered, what an overwhelming significance the statement possesses and what a wealth of fulfilment the prediction has attained! Has not Yahweh indeed made His Name to be remembered in the Land? What other land is there that has been so filled with His memorials? Let the history of its ancient sacred associations speak for itself; but it was to be known to the later world as the Holy Land chiefly because the Holiest trod its soil and died and lived again under its skies. The whole Land was to be a Makōm in the most sacred sense of the term. Is it any wonder that the great law-giver, speaking in the name of Yahweh, was inspired to a simple prophecy that there Yahweh would cause His name to be remembered? And as if, once having used it, the mould should be broken, the word was never used again, not even by him who later sought to associate the Name with the true place of worship. Only One could say: "הַמָּקוֹם אֲשֶׁר אֶזְכֹּר אֶת-שְׁמִי".

It is in the whole land that He will come to them and bless them. It is His land[@] and He has prepared it for them. He is Sovereign of the land; but in grace He is Sovereign too. For He does not say: I ordain set places and thou shalt come to me there. But: Wherever the sincere soul feels after me, I will come to him and I will bless him. His people need no priest, no special altar; three holi-days in the year they gather in the simple ^{@@}בֵּית יְהוָה of their home-town - no 'high place', needing no pilgrimage. And in the land they will be protected from the evil that might befall their faith by their obedience to Him. He is still their God only; but the seeds of a greater thought of Him have been sown. ^{@@@} "Yahweh does not dwell at, He comes to the place of the cult." Welch. 'Rel.u.Kgdm'.p.14.

[@] The whole land is His.
See LXX. addition to 23:22.

It is all extremely simple in conception. But that may be - surely it is - a sign of spiritual elevation. The central principle of these words embodies the great fact of the divine response to human worship. An ancient version runs: Wherever thou shalt remember, or recall my name, I will come unto thee. That too is extremely simple but it is implied here and the principle is the same. And it is eternally valid. God will ever come to the soul that sincerely worships, and will bless him.

The proof seems to me conclusive that it was in the whole land in which Yahweh is here represented as intending to make His Name remembered. This has not been hitherto understood. An exalted spiritual idea, universal in conception and daring in its simplicity,

has been marred and restricted in its application. The author has been grudging acknowledgment of the wide outlook of his spirit and robbed of its legitimate heritage. The view urged in this Thesis restores the original and intended sense of the grand statement of 20:24 with all its spiritual implications. This view renders the statement intelligible in all its parts and is the only one of which I have any knowledge that fully fits the facts, reveals and meets the actual situation, and does justice alike to the author and the document.

CHAPTER VI.

COMPARISON WITH OTHER CODES: A. HEBREW. B. OTHER EASTERN.

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O Schröder in p. 219
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Arthur Jerken in his 'Altorientalische Hammurabi' p. 7. (1925)
on p. 93 gives in parallel columns a comparison of
Mosaic Laws - Hammurapi's Old Assyrian. Hittite - Semitic Law codes
(also pp. 91-92 latest literature)

CHAPTER VI.

COMPARISON WITH OTHER CODES.

- A. HEBREW.
 - B. BABYLONIAN, HITTITE, ASSYRIAN.
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The comparison of Bb. with other Codes is a subject of such rare and comprehensive interest that it is quite impossible to treat it adequately in the course of a single chapter. Little more can be done here than to indicate the points of similarity and contrast. We take up first, the other Biblical Codes. A. HEBREW.

Of these there are no fewer than six: The Decalogue; J"; D; The Shechem or Sexual Decalogue; H; and P.

More or less in each case the comparison may be made to strike the eye by tabulating the Codes side by side and several such I had prepared for presentation, but they cannot now find a place here.

I. The Decalogue. Ex. 20:3-17.

The comparison here, it must be obvious from the outset, can be only with the religious debarim of Bb. It is not now necessary to discuss the distracting question originated by Goethe and which so exercised the mind of the late W. Robertson Smith and many others. (sup. p. 56). It is quickly fading into the limbo of the obsolete; but

many scholars past and present, including Wellhausen, Baentsch, Kent, and others gave and continue to give their countenance to the view that the original Decalogue is to be found in Ex.34. The critical view, however, is rapidly assimilating itself to the popular view that the only and original "Decalogue" is that preserved by E to whom, as it happens, we owe so much besides, although it also is repeated by D, in chap.5.

There are no precepts of positive worship in the Decalogue ('OTJC'.p.304), but all its various laws, with the exception perhaps of the last, may be traced in Bb., yet as we have seen, there is no appearance of any systematic attempt to reproduce it in the latter, as Rothstein, for example, claims. (Supra, p.64).

The contrast between the Decalogue and Bb. is perhaps most marked in the abstract nature of the laws in the former. This, however, is not due to, or dependent on an essentially advanced mental development, as Baentsch thought, rendering it necessary to date the Decalogue probably some centuries after Bb.; but to explanatory accretions accumulating in the course of the years upon the original ten short and succinct maxims of one clause each. These were easily memorised and easily retained in the memory and the prescience of Moses in adapting to popular use such a simply and definitely numbered series of notable religious and moral laws has had its justification in their universality and probably will have to the end of time.

Dr. Charles in his recently published Warburton Lecture for 1919-1923 on "The Decalogue" has interestingly traced the history of these accretions. He proves the genuine Decalogue to have been in existence from the Mosaic period and holds that Moses actually wrote it between 1320 and 1300 B.C., while the people were still nomadic. From such an authority this is a finding of serious weight and entirely throws out of gear the reasonings of a generation of scholars who maintained the priority of Bb.

II. J". Ex.34:10-26.

It is by no means surprising that there have been many efforts made, by placing them in parallel columns, to show the striking resemblance between what has been universally named and held to be the Decalogue of J and the relative part of Bb. (Driver. 'Ex'. pp. 370-372: specially last page. Kent. op. cit. p. 19f. Carp. & Harf. op. cit. p. 471. &c.). So striking, indeed, is the similarity that it is a wonder another conclusion was not drawn.

The situation is very interesting. As said, J" has been universally assumed to be a Decalogue; why then has not the relative part of Bb. too, been universally assumed to be a Decalogue? Probably, indeed it is hardly to be doubted, if it had stood alone, it would have been. But it has never been considered so and as a matter of fact it is not so. Neither in fact is J" a Decalogue and, notwithstanding all the valiant attempts that have been made to prove it so, it eludes them all.

Sellin is undoubtedly right when he says (op.cit.p.45) that it is not possible without violence to get ten commandments out of it. Critics have been misled by failure to observe a very patent gloss - 'the ten words' - at the end of v.28.

Naturally the next question to be asked is, What then is J"? It will have been observed that this symbol has been consistently used throughout as "J's parallel" to the relative portion of Bb. and now I think it could hardly have been more happily expressed. For the initially simmering idea now shapes itself as an overpowering conviction that it is simply the parallel portion of Bb., the whole of which was known equally well to both J and E, who both preserved it all, though in the redaction of JE, for reasons sufficient, only a fragment of J's Bb. was allowed to stand. It is quite clear from his narrative that J knows Bb. (Baentsch. 'Bundsb.' p.119 et passim). It has been long clear to me that Bb. and J" are but two recensions of the same document or portion of a document and indeed this seems to be an acknowledged opinion. (Driver. 'Ex'. p.372). But what has never been openly acknowledged though often hinted at, is that J" is a later recension of the same document as Bb.

It is (at present) universally conceded that J is an older source than E, although it is not so long ago that E held pride of place in the estimation of some eminent scholars such as Dillmann and Principal Sir George Adam Smith. But no thinker will refuse to

admit that one collector of documents may be successful in preserving an earlier document than any preserved by a brother collector working previously in the same line. And I for one am convinced, and have been impressed with the view practically from the beginning of my investigations, that though Bb. and J" cover the same common ground in their related parts, the balance of age is decidedly in favour of the former, and that for the following reasons:-

1. The archaic linguistic forms so prominent in Bb. are entirely absent from J". The rare words מִן־הַיָּם , מִן־הַיָּם , מִן־הַיָּם , and, indeed, all other philological indications of a particularly early date are conspicuous by their absence. This argument alone is a weighty one.

2. While the original instructions for the building and the form of altars are given in Bb., J" takes altars and their form for granted. Could such instructions be absent, at least in its earliest form, from the "primitive corner-stone of Israelitish legislation?" (Kent, p. 16).

3. The inseparable association of civil and religious laws is an Israelitish characteristic, as we have seen, and the fact of their dissociation in J", however it may have come about, is indicative of a later and not, certainly, of an earlier date.

4. It is clear that within Bb. we find the fundamental moment of a system (v. 24); and of that system the debarim in both Bb. and J" are the exposition, which may be inferred from their similarity alone; in which case it

seems arbitrary to declare J" the earlier of the two beyond the suggestion of a doubt.

5. The presence in J", on the other hand, of words like *תָּשַׁח* , *פָּסַח* , *מַצֹּת* , and *אֱלֹהִים* , bearing either a 'theological' or a technical sense foreign to Bb., can only be explained as the outcome of later cultural development.

6. The law of the first-born stands in a very equivocal form in Bb. (22:28f). Twice it is classed under the same verb 'give' as the ox and the sheep. It would be very easy to explain such a command away. It would be just as easy-to honesty-to interpret it as demanding the sacrifice of the first-born. Robertson Smith has, of course, characterised the idea as absurd ('Rel. of Sem.' p. 445), and in this he has been followed by most expositors; but, after all, it may be absurd only to us, who contemplate the idea from another cultural standpoint, and the idea in itself, as I have suggested above (p. 154), is capable of the noblest possible interpretation.

What, moreover it may be asked, lies behind the Passover idea? The conception that the sacrifice of the peculiarly prized first-born was demanded of heaven seems inveterate in the early mind and many citations prove the apparent acceptance of the idea even among civilised peoples. The following references to the subject, all of which have been studied, may be given: 2S. 21:1-6. Jer. 7:31; 19:5. Wellh. 'Hist. of Isr.' p. 88. p. 403n. Macalister (Kennedy, Art. 'High Place', HDB 1 vol) is countered by Jeremias ('OT. in Light of Anc. East'. I.

p.348. II.p.243f.) .Barton, Art. 'Israel' .Hast.DB, 1 vol.
 Gressmann: 'SAT. "Anfänge Israels".p.54. Welch. 'Rel. under
 Kdm.' p.70. Benzinger. Art. 'Passover' and Cook. Art. 'First-
 Born: Enc.Bib. Jordan: Ancient Heb. Stories' .p.136.

One is glad to think it possible that the practice was a misreading of the law as the prophets held. It seems to me impossible to be dogmatic - on the evidence - that it is in this law. But the mere fact that it is less definitely expressed here than in J" is proof enough, as Dillmann holds, (in loc.) that the latter is later.

7. The last and perhaps the most convincing argument of all lies just outside, in the 'frame-work' of Bb., though in the most intimate sort of connection with it. In course of ratification of the Covenant we are told Moses set up twelve 'אֱלֹהִים'. It is clear, then, according to E., that they are allowable. But according to J" (v.13), they must be dashed to pieces! We have seen reason to believe that the word in 23:24 is a misreading and if that be so, the contrary attitude of the two Sources is so great as to be irreconcilable. Dr. Welch ('Hist. under Kgdm.' p.15f.) seems to minimise it unduly and, unless I have misread him, he is in error in stating - in view of Ex.34:13 and Gn.35:14, which Driver ascribes to J - that J never alludes to the אֱלֹהִים at all. The only satisfactory solution of the problem seems to me to be that J" represents a decidedly later view of this question.

A careful study of Baentsch's treatment of his comparison of Bb. and J" on pp.79 and 99 of the 'Bund-

esbuch' will show that he gives the case entirely away in favour of the priority of Bb. and Kent (p.18) is also apparently suspicious of the same result of a bolder dealing with the question.

The points that appear to be established in this section on the comparison of Bb. and J", then, are these:- 1) that J" is not a Decalogue; 2) that it is only another recension of a part (although originally J also had the whole) of Bb.; and 3) that that recension is shown to be in a later, and not in an earlier, form in J".

III. The Shechem Dodecalogue. Dt.27:15-26.

Gressmann describes this rather untastefully as the Sexual Decalogue, from the nature of four of its denunciations, or rather imprecations, for all its items are in that form.

The use of the term 'Decalogue' by critics seems inevitable; but again this is no decalogue, but an unmistakable Dodecalogue, as it contains twelve items without question.

It was doubtless also preserved by E, whose hand is clear in all the main parts of the chapter.

It is a perfectly distinctive and remarkably interesting fragment. Notably it is a portion of liturgy that was used at the celebration of the making of the Covenant (Bb.) - no doubt, the annual celebration, at Shechem. On the general aspect of the question this

throws a clear light in the direction of the position now representatively maintained by Gressmann and Sellin

46f

(Gr.' SAT.' II.1.p.238. Sel.' Intro.to OT.' p.31) on the origin of OT.legislation in the element of ritual.(v. p.11 sup.).

Sellin, however, remarks that the second, fifth, seventh, eighth, and sixth commandments of the Decalogue (Ex.20), of which he calls this an independent bye-product, have been recast in this piece in relation to the circumstances of the time in Canaan. This appears to me to be an entire misapprehension of the case. The whole piece quite obviously rests upon Bb., for numbers one, two, five, seven, ten, and eleven are word for word reproductions of the corresponding regulations in Bb., while all the others, except the last which is general, reproduce Bb's terminology. This would be, of course, natural to a degree, in the celebration of the inauguration of Bb., and then recasting to a certain extent may be allowed as natural also; for there is some truth in Sellin's remark that in the curses we see reflected the whole religious, family and civic insecurity of the time of the Judges (p.47).

That the period of this collection is well advanced beyond that of the inauguration of Bb. is made evident by the fact that the traces of corruption are beginning to make themselves known, though not openly. Verse 15 announces openly what otherwise could only be suspected that images had been set up in secret in some houses or in niches in some of the shrines. (Gressmann.' SAT'. II.1.238).

This collection, though founded unmistakably on Bb., is yet much more independent in character

than J". On the other hand, while reproducing Bb. quite as comprehensively, in comparison, as D does, it stands very distinctively in a position of its own midway between Bb. and D.

IV. D. More particularly, Chapters 12-26.

The relationship of D. to Bb. is that of the greater which includes the less. Any tabulation of the two makes this at once clear. Such tabulations and others are given by Driver, 'LOT'. pp. 68ff; 'OTJC'. p. 319f.; Carpenter and Harford, 'Comp. of Hex'. p. 124ff; Holzinger, 'Einleit. in d. Hex.'. p. 303. &c.

Baentsch ('Bundesb.'. pp. 104ff.) expresses well in his own tongue the real connection between the two: "D. fusst auf dem Bb. und will eine Reproduktion desselben sein." This is to be expected if "it is expressly said in Dt. 5:22ff. that Deut. is to stand in the place of Bb. which is what God communicated privately to Moses when the people refused to hear more directly from Yahweh."

Variations and expansions are, of course, observable but are due mainly to the advance in civic interests and social conditions as well as the development of the language.

The titles *דְּבָרֵי חֻקִּים וּמִשְׁפָּטִים* and *חֻקֵּי וּמִשְׁפָּטֵי* remind us of Bb., the last almost corresponding to *דְּבָרֵי חֻקִּים*. D. like Bb. is folk-law addressed in the 2nd sing. They both deal with the concrete and real relationships of life. Baentsch of course holds that in both agriculture forms the basis of the legislation; but this view is to be modified in terms of the view expressed above (p. 133ff.) and later.

The author of Bb. associates the name of Yahweh with the whole land; D., let us now say, with the legitimate places of worship. Developments are found otherwise in the following comparative instances: Ex.21:1-6 and Dt.21:18-21; the same regulations with more liberal provision for freed slave. Ex.21:15,17 and Dt.21:18-21, with addition of the case of the rebellious son. Ex.22:19 and Dt.17:2-7; with exposition on idolaters and their doom. Ex.23:14-17 and Dt.16:1-15; expansion for the feasts. Ex.22:24 and Dt.15:11; interest may now be taken from the foreigner. Ex.21:16 and Dt.24:7; kidnapping restricted from 'man' in general, to 'Israelite' in particular. Most of all, according to W. Robertson Smith, ('OTJC' .p.370 n.) is the development seen in the 'forbidden degrees'. One last item mentioned by Baentsch may be adduced: the highest Court, Dt.17:8-13, is in embryo in Ex.21:6.22:8.

The conclusion, justly enough described in the latter's words is this: "D. is nothing else than an expanded and advanced Bb; a Bb. in a second and entirely revised, amplified, and improved edition" ('Bundesb.' p. 109. Cf. Driver. 'Deut.' p. xix.) If we like to complete the parallel further, we may add, as Robertson Smith suggests, that they are both preceded by the Decalogue (Ex.20:1-17, and Dt.4:44-11:32. 'OTJC' .p.319 n.).

This view has apparently been questioned by some. Carpenter and Harford, for example, ('Comp. of Hex.' p.124) state that "Ex.21:17-22,26-36;22:1-15,19,28 have no counterparts in D. and it may be doubted whether D. may be even broadly described as a new edition of it."

Again the situation is very interesting for these eminent and able workers do not seem to have observed that they could hardly have more minutely selected the passages which deal directly and almost exclusively, but for one or two otherwise obsolete things, with the ancient and outworn pastoral conditions. This, it will be seen, is a very telling corroboration of the views I have presented above, p.133f.

Kent(p32), with a carelessness which is very unlike him, makes the gap much too wide.

With the statement of W. Robertson Smith on this topic there need be no serious quarrel ('OTJC'. p.318f.) "It covers the whole ground of the old law except one verse of ritual precept (Ex.23:18), the law of treason (Ex.22:28), and the details as to compensations to be paid for various injuries." One could have wished that he had observed that these latter were just such cases as would be first to become obsolete with the advance of settled social conditions.

With his view that it is not a mere supplement of Bb. there will be complete agreement. On the other hand, it must now be held to be more than "an independent reproduction of its substance". The Asylum Towns, for example, had no 'substance' in Bb; they were merely promised. It is a reproduction, moreover of its spirit. That remarkable warmth of humanitarianism which has been held so admirable a feature of D. is not to be taken as making its first appearance there. It most certainly carried that over too from Bb. and could not possib-

ly have made it more of a characteristic. It is strange to observe the 'psychological contradictory' in the mind of Baentsch who notwithstanding his "fusst auf" and "entirely improved edition" leaves no stone unturned to prove that all that is best in Bb. belongs to D! The fact should be for ever clear that D. is the borrower. Bb. is the lender. It was Bb. that made Deuteronomy 'Deuteronomic.'

It is to be noted before passing on, however, that D. is independent in leaving out other things in addition to those already mentioned. In particular, he leaves out the whole of the slave legislation that concerns the 'slave-wife'. On the other hand D. shows his dependence on Bb. in freeing slaves male and female; he does nothing more in specially mentioning the female than make the provision quite explicit which stands already in Bb. as shown above (p.145).

Kent (p.35) sums up his appreciation of D. with the remark that in it is found a large proportion of the noblest and most enduring legislation in OT. Certainly in comparison with our Code, it is more comprehensive and more imposing; but its nobility and permanency are in most respects not greater than those of Bb. to which it owes them. Nor can we forget that it is possible to speak of the "two faces" of Deuteronomy (Smith. 'Jeremiah'. p.142); that it introduced the bastinado^②; or that a great OT. scholar declared in no flattering terms: "Pharisaism and Deuteronomy came into the world on the same day." A true and searching estimate of D. is present-

② And public stoning of incorrigibly disobedient son. 21:21.

ed by Dr. Welch, ('Rel. under Kgdm.' p. 197ff.)

V. H. Lv. 17-26.

This collection, styled by Klostermann rather obviously 'The Law of Holiness' is one of the most interesting and actually the most varied in style and content of all the OT. legislative systems. Cornill ('Intro.' pp. 132ff.); Baentsch, in a special brochure, 'Das Heiligkeitgesetz'; Dillmann, ('Exu. Lv.' p. 533f.); and Kent, ('Isr.' 1's Laws, &c. pp. 36ff.) have all treated it mostly from divergent points of view, the last probably the most successfully of all.

It offers such contrast to the rest of the Pentateuchal writings that it is easily distinguishable as an independent collection which must at one time have had a separate existence.

My own opinion is that it is not one law but several short collections of laws united by the one formula demanding holiness. It is a short hand-book or compendium of all the law-collections of the OT. It seems to have been a 'vade mecum' of the members of the priestly class of the age of the Captivity. It may even have been, like the Old Assyrian Laws - the latest 'find' of the explorers to be mentioned presently - a private or at least semi-private collection. But in any case there is no doubt that it shows distinct points of contact with the very latest as with the very earliest law-collections of OT. It seems just as likely in fact that H borrowed from P in the matter of the 'Jubilee' as that

P. borrowed from H. and such indications of a late date are rather vital and no appeal to the most ancient topics the collection may happen to deal with can avail to disprove them. Of course the possibility of working over by P. or some one later can be advanced but that is your pure critic's magic touch for 'modernising' everything.

Turning to points of comparison, I submit that chapter 19 is simply another version of Bb. Sellin (p. 48) allies the Decalogue with Bb. as reflected from the chapter named. Baentsch who makes the same assertion, says that the comparison of D. with Bb. and that of H. with Bb. are to be thus distinguished, that D. excluded the Decalogue. It is very difficult indeed to exclude entirely the language and thought of the Decalogue either from Bb. or D. and what look like direct references to the Decalogue in H. may only be but variant statements of the same law that took more than one similar form in the early time. The highest possible number of these alleged references to the Decalogue so far as I can see is two - out of 37 verses, and no single reference makes a complete verse. It is rather an exaggeration therefore surely, to speak of the Decalogue as being 'interwoven' here with Bb. and they make too much of it.

Baentsch further declares that there are no verbatim borrowings in H. from Bb. Here again in my opinion he is in error for the references to the α in vv. 33 & 34 are identical in words and motive both, with Bb. 23:9. Apart from identities of enactments, however, the identities in terminology are so numerous and indub-

itable and the recurrence of certain forms just here and nowhere else in H. so startling that, were this the place to adduce them, it would be readily seen that the absence of verbatim quotations is nugatory and indifferent.

It should be noted at the outset that there is an interesting link with Bb. in the command so characteristic of H. that it has given it its title. (22:30 and cf. p. 157 supra.).

In the rest of the chapter such correspondences as these are found: a modification of the provision for the Sabbath Year from the same motive and in the same spirit; theft; judicial righteousness; rumour-raising; seduction of a betrothed slave-girl; nothing to be eaten with the blood; sorcery denounced; the deliberate quotation of the π legislation.

But the comparisons are not to be confined to this chapter, and 23:9-22; 39-44. 24:15-21. 25:1-7 all yield their quota. And finally chapter 26:3-46 is one of those conclusions common to most of the collections and which were initiated by Bb. (p. 58 supra.).

One feels that notwithstanding the investigation to which this interesting collection has been subjected at the able hands of those mentioned above, and of Driver ('LOT' .pp. 43-55; pp. 138-144) who may be added to them, that there is still much to be learned about it, and before leaving the subject reference may be made to the very interesting proof which Haller leads with eminent conclusiveness that this[ⓐ] was the Law that Ezra [ⓐ](rather than P!) read to the people with such immediate effect upon them

as is recorded in Neh.8.('SAT'.II.3.p.187f). Kent does full justice to the relation of Ezekiel to H.but perhaps nowhere more than here do his Pentadist proclivities threaten to become an obsession and perhaps nowhere less than here in all the OT.legislation is it likely that in the nature of the case the Pentadist principle was applied,and that it is as a matter of fact inapplicable is pretty evident from the small measure of success such an expert as himself here achieves.

VI. P. Especially Lv.1-16.27.

Nu.1-10. 25-36.

(Ex.25-31. 35-40)

An enumeration of the references in H.to Bb.according to one of the tabulations I have drawn up shows the number of such to be 47. That of the references to P.shows only 17. The contrast,especially considering the magnitude of P.as compared with H.,is remarkable,and the fact renders it unnecessary that P. should detain us long.

The loci and topics are as follows:-

Lv.1:2;sacrificial victims. Lv.3:1;Peace-offering.
 Nu.35:6-34;Asylum Towns.Nu.3:12,13;Levites as'first-born'.Nu.18:15;all first-born,man and beast,Aaron's.
 Nu.15:32-36;illustration of breach of Sabbath law. Nu. 28:9-10;offerings for Sabbath.Ex.35:2,3;seventh day rest. (Nu.9:1-5;second Passover feast prescribed.Nu.28: 17-25;offering for Passover week.) Lv.2:13;first-fruits offered,not burned.Nu.29:12-19;offering for feast of Tabernacles.Nu.18:12,13;first-fruits to be Aaron's.
 Nu.28:26-31;offering for day of first-fruits.Nu.25:6-9;

instance of breach of law against covenant with other nations. Nu. 33:52a; expulsion of Canaanites.

In P. the 'plurality of shrines' according to Baentsch, in Bb., is countered by the silent assumption of unity of worship; but the proper view of this and of the Asylum Towns which Baentsch says is in P. mediated through D. and therefore not direct ('Bundesb.' p. 103f.) has been indicated sufficiently above. Points of real and striking contrast are seen in the elaborate altar of P. with its steps and raised approach, and the almost absurdly simple altar (as it must have appeared in his sight) in Bb.; and the extraordinary change of view in regard to the feasts. In Bb. these are simple and joyous; in P. they are theocratic feasts with historical foundations and their observance is a matter of ritual, painfully exacting, stern and spiritless.

It is obvious that P. is representative of a different time and of an absolutely different feeling. The people are not a political, much less a pastoral, community but a theocratic Church. The central figure of this Church is the High Priest and the Code is evidently intended to be in the hands of priests. Its sinister influence already referred to in the opening chapter (p. 22 supra) can hardly be brought out in stronger relief than when subjected to comparison with Bb.

At the close of this comparison of Bb. with the other Biblical Codes notes may be appended on two points of general interest, the latter more especially

important in connection with the immediately following aspect of our study.

1. The development of the situation with regard to the Feasts throughout the successive codes is as noticeable as it is interesting.

Taking the first, that of 'Unleavened Bread', ('Passover'), it is to be observed that

In Bb. this is the great feast; observed for seven days in the spring-time; originally doubtless connected with a pastoral occasion (supra, p. 138) and not with agriculture. No mention of the Passover.

In J" the Passover is introduced by name at least (24:35).

D makes 'Passover' a proper name for the first time, so to speak, and sets it above the feast of Unleavened Bread.

P. makes the Passover first in importance.

Both these last append commands for the observance of the feast of Unleavened Bread in connection with their Passover law.

Taking the second - which may well be called the feast of the many names, 'Harvest',

'Weeks', 'First-fruits', 'Pentecost' - we find:

The time is stated in the most general terms of all in Bb. - 'the first-fruits of thy sowing'.

J" definitely indicates it as 'the first-fruits of wheat harvest'.

D. counts seven weeks from the first putting of the

sickle to the standing grain.

H. counts seven Sabbaths from the day after the Sabbath of the feast of Unleavened Bread. A great Sabbath ritual with many offerings. P. gives explicit directions as to these offerings.

Taking the third, the Feast of 'Ingathering' or 'Booths', Bb. places it most simply at the 'outgoing' of the year, and leaves the impression as J" also does, that it was of one day's duration.

D., H., and P. make the duration seven days. In H. the historical connection is introduced that it is a celebration of the dwelling of the people in booths or tents on their exodus from Egypt.

P. makes the closing day one of the seven great Sabbaths of the year and by the number and importance of the offerings constitutes it the culminating point of the year's worship.

These facts are clearly brought out by Dr. Briggs in his 'Higher Criticism of the Hexateuch' and I have sought in the above to throw what I consider an increased and, as I hold, a very justifiable emphasis upon the unquestionably earlier stage of development in Bb. than in any of the other codes whatsoever.

2. The second note concerns the introductory formulae to the various commands. My studies in connection with the Oriental codes has convinced me that these must often play a serious part in certain phases of interpretation and valuation of the regulations and indeed, as we have seen, it is the case also in the Hebrew. It is quite evident in the following tabulation that in themselves they constitute another strand of the chain of evidence for the development of the Codes.

In Bb. the following are the various methods of introducing commands:-

1. Direct. Jussive, impft. Affirmative or negative. 20:23,24. 22:17,20,21,27,28,30. 23:1,2,3,6,7,8,9,10,12,14,19,19. Twenty t.
2. 'וְ with the 3rd person. In most cases introduces a new subject or new aspect of the legislation. 21:7,14,18,20,22,26,28,33, 35,37, 22:4,5,6,9,13,15. Sixteen times.
3. 'כִּי with the 2nd person. 21:2. 23:4,5. Three times.
'כִּי, literally 'when', generally to be rendered 'if', thus occurs nineteen times in all.
4. The simple participle: 'he that', 'whosoever', 'every one that'. 21:12,15,16,17. 22:18,19. Six times.
5. וְ twice, as we have seen above (p.49), introduces a fresh legislative paragraph. 22:24,25.

Thus Bb. has five different modes of statement for its laws.

J", consisting entirely of debarim, has the jussive throughout, with one variation in favour of the imperative.

D. furnishes only very slight divergence from Bb. It has

1. יָצַו with the 3rd sing. as follows:- 12:21, 29.

13:2, 7. 14:24. 15:7, 12, 21. 17:2, 8.

18:6, 21. 19:1, 11, 16. 21:1, 15, 18, 22.

22:6, 13, 22, 23, 28. 23:10, 11. 24:1, 5, 7.

25:1, 5, 11. Thirty two times.

2. יָצַו with the 2nd sing:- 13:13. 17:14. 18:9.

20:1, 10, 19. 21:10. 22:8. 23:22, 23,

25, 26. 24:10, 19, 20, 21. 26:1, 12. Eighteen times.

יָצַו thus occurs fifty times in all.

3. ..וְיָצַו, the relative with the verb, not participle with verb as in Bb., occurs at 19:4.

* 4. וְיָצַו seems undoubtedly to open a principal case at 22:25.

Thus there is very little to distinguish the usage of D. from that of Bb. but the difference between these and both H. and P. is very marked.

H. has the following:-

1. יָצַו with the 3rd sing. 19:33. 25:25, 35, 39, 47. 5 times.

2. יָצַו with the 2nd plu. 19:5. Once. 6 times in all.

3. The simple participle. 24:21.

4. ..וְיָצַו . 19:20. 22:14, 21. 24:17, 19. 25:29.

5. 20:27.
6. 24:15.
7. Other substantive with . 21:9.
8. 18:6.
9. 20:10,16(), 20. 21:17. 22:5.
10. 17:3,10. 20:2. 22:18.
11. Other substantive with . 21:10.
12. 22:6.
13. 22:4.
14. 20:6
15. 21:18. 22:3.
16. 20:9.

That this remarkable list does not exhaust the Hebrew turns of expression for the same idea will be seen from the contribution which P. makes to it.

P. has the following:-

1. with the 2nd. sing. Lv. 2:4. Only once!
2. The participle with the article. Lv. 7:29.

Nu. 19:11 (ptcple. with).

3. with substantive and verb. Lv. 4:22.
4. Lv. 1:2. 13:2. Nu. 19:14.
5. Lv. 12:2(). 15:16. 27:2,14. Nu. 27:8. 30:3. 30:4().
6. Lv. 13:29,38. Nu. 5:6. 6:2.
7. Lv. 2:1. 4:2. 5:1,15,21.

It is to be remembered also that he has the formula:

8. Lv. 6:2,7,18. 7:1,11. 14:2.

Nu. 6:13 and, quite exceptionally, אֵלֶּיךָ

הַתּוֹרָה .

The foregoing tabulation presents a rather extraordinary phenomenon in view of the opinion commonly held of the pronounced inflexibility of the Hebrew language. H., who easily bears the palm among the group, has at least a round dozen of different ways of expressing the one word 'whoever'. The most notable fact, perhaps, is that H. and P. are similar in their dissimilarity to Bb. and D.

It is interesting to compare the LXX's renderings these later expressions. The LXX. exceeds in number, but this is not to be taken as an indication of the superior flexibility of the Greek, for while the LXX. has no fewer than five distinct renderings of אִישׁ כִּי it has, on the other hand, but one rendering for three or four different Hebrew phrases. Besides, the Hebrew phrases are native and natural while the LXX's are in many instances literal, artificial, and clumsy reproductions of the Hebrew, and quite foreign to good Greek.

It cannot be denied that in a contest on the same ground, the Hebrew excels in flexibility. The phenomenon marks a great advance and a late stage in the use of the language. It undoubtedly indicates a loosening of the ancient bonds of legal usage also, and among other things the weakening of the Babylonian influence on Hebrew literature and especially Law literature.

B. BABYLONIAN, HITTITE, OLD ASSYRIAN.

It is when we come to the comparison of Bb. with the codes of other nations of the earlier world that we appreciate the value and romance of the archaeological exploration activity which has flooded the ancient Eastern horizons with light so that we are able to deal with some aspects of our subject with a far surer hand than the critics who lived and died before the advent of the present century.

The literature on the subject of the first of the following codes is now immense. The same can by no means, however, be said of the others and I shall be glad if anything I say under these may be taken as a contribution in English to the knowledge of two amazingly interesting ancient law-collections.

I. THE CODE OF HAMMURAPI. (Symbol CH).

This Code, "one of the most important monuments in the history of the human race" (Johns, 'Oldest Code of Laws', p. v.), was discovered by M. J. de Morgan, at Susa, in Elam, the great rival of Babylonia for centuries, in January, 1902. It dates from about 2000 B.C. and reveals an astonishingly highly developed civilization.

The stone of black diorite, 8 ft. high, on which the laws are inscribed, bears an artistic representation of King Hammurapi receiving from Shamash, the Sun God, the legislation which, according to his own grandiloquent accompanying address, among other things reflects such credit upon himself as we have seen above (p. 150f).

The legislation itself is followed by an invocation of blessings upon all who obey; and a much more extended invocation of curses upon transgressors of the laws.

There are no fewer than 282 articles or paragraphs of legislation, some thirty five of which, however, have been erased. The laws concern themselves entirely with secular and civil affairs.

The following list of parallel topics - all more or less the very topics dealt with in Bb. - will give a general idea of the resemblance and will justify the proposal for comparison.

1. Witchcraft.	Bb. 22:17.	CH. 1-2.
2. Witnesses and judges.	" 23:1-3.	" 3-5.
3. Theft.	" 22:6-8.	" 6-8.
4. Stolen property found in hand.	" 22:6-14.	" 9-13.
5. Kidnapping freeman.	" 21:16.	" 14.
6. Burglary and brigandage.	" 21:37 22:2b, 3.	" 21-25.
7. Land laws and field cultivation.	" 22:4, 5.	" 42-56.
8. Responsibility of herdsman.	" 22:13, 14.	" 57, 58.
9. Debt and deposit.	" 22:6-12.	" 112-126.
10. Slander.	" 23:1a.	" 127.
11. Marriage contract.	" 22:16.	" 128.
12. Unchastity. (Various).	" 22:15.	" 129-132.
13. Taking of second wife or concubine.	" 21:10.	" 144-149.
14. Unchastity. (Various).	" 22:18.	" 153-158.
15. Purchase-price of bride.	" 21:10, 16.	" 159-164.
16. Rights of wife, slaves, widows, &c.	" 22:20-23. 23:6, 9.	" 165-184.
17. Responsibility for assault and death.	21:12-25.	" 194-214.
18. Penalties and doctor's fees.	" 21:18, 19.	" 215-225.

19. Responsibility for hired: Bb. 22:9-14. CH. 241-274.
live-stock.

20. Buying of slaves. " 21:1-7. " 278-282.

The sections remaining, with a note of their content, will indicate the contrast to some extent at least:-

CH. 15-20, fugitive slaves; 21-46, duties and privileges of 'gangers' and 'constables'; 59-65, concerning gardeners; 100-107, rights of merchants and agents; 108-111, of wine-merchants and the price of wine; 133-143, separation and divorce; 150-152, property of women; 185-193, laws of adopted children; 226-227, branding of slaves. 228-233, responsibilities of the builder; 234-240, responsibilities of boatmen.

From the mere tabulation of these latter paragraphs we get a glimpse of that state of society, so much more advanced than that reflected in Bb., where trade had a perfect machinery with a long history behind it; where there was a well organised and highly gifted medical profession, with apparently a medical literature; where there was official land survey and a huge system of irrigation with canals, water-ways and a fleet of boats and boatmen; where judges went in circuit and legal business made the land a professional scribes' paradise. But the contrast need not detain us longer. For our purposes the points of contact, the resemblances, we may say at once the identities are much more vital.

The following, briefly, are the chief identities and they make a rather startling array.

1. The title of CH. 'Judgements of Righteousness'

2.The legislation in both cases a revelation from God.

3.The 'mishpatim' form of statement: 'If...'

4.The same form and style of Conclusion.

To these general identities are to be added the following special and particular:

5.The same conception and process of 'bringing before God', in a case where human decision did not seem possible. Bb.21:6. 22:7,8,8. CH.pars.9,23,106,120,126,266,281.

6.The variations in the case of the goring ox are identical in their details (except the penalty).Bb.21:35. CH.250,251.

7.The injured pregnant woman case (and,as often held,her compensation). Bb.21:22.CH.209.

8.Kidnapping,(stealing of persons) distinctive. Bb.21:16. CH.9.

9.The assaulted man to be seen thoroughly cured (by the doctor's aid and without expense to him). Bb.21:19.CH.206.

10.The treatment of the divorced slave-wife. Bb.21:7-11.CH.137.

11. Stolen things 'found in the hand'. Bb.21:16.CH.9. This is a most interesting coincidence

which I have kept to the end. The above phrase stood in my original list as one of those strictly peculiar to Bb. It really is so in this sense but as I discovered it in 1S.9:8 in sense of 'I have here' I too scrupulously,as I now think,excluded it. This is the only OT.code in which it occurs and that is indeed

striking, along with its coincidence with CH., when it might so easily have been otherwise expressed. Clearly it is a legal expression and a very early one at that; for as such it never occurs again.

With regard to the phrase 'before God', Gressmann also remarks upon the definiteness of the coincidence in view of the ease with which the same idea could have been in so many ways otherwise expressed and proves that it is to the phrase as it occurs in Bb. and not as in D. the coincidence must be referred. ('SAT'. II. 1. p. 231.)

Three points emerge in the comparison in favour of Bb. The latter has first, a nobler religion; second, a larger humanity, and third, a higher sense of justice.

It has been objected, of course, that no comparison on the ground of religion can fairly be made. but in my opinion there is sufficient evidence of the proposition here submitted to be found in three different directions, namely in the setting of Bb. as compared with that of CH; in the traces of corrupt religious practices throughout the latter itself; and most of all in the very divergent attitudes of the two law-givers concerned toward the divine originator of the legislation.

With regard to the larger humanity of Bb. this seems to me evident on every hand. The mere enumeration of the penalties associated with the legislation gives a sufficient impression of this - fines, compensation (three, five, six, ten, thirty fold), repayment in kind, banishment, degradation from office, ordeal by water, scourging, retaliation, mutilation in many forms,

(branding, cutting off ears, and hands, and breasts, tearing out eye, cutting out tongue) and death by drowning, burning, and impalement; - surely a 'black list' in more senses than one! Bb. stands proudly high by contrast; as indeed, it does even with all other and later Biblical codes in the same respect.

The slave's position in Bb. is confessedly more tolerable than in CH. It is in fact infinitely better protected and were it not for the unforgivable carelessness of critics it would appear so. Gressmann, for example, states as a point against Bb. that in CH. the slave was liberated after a short four years in contrast to Bb's six. Now as a matter of fact there is not a word said in CH. as to when slaves were liberated or if they were ever liberated at all. The person to whom liberty is granted in Gressmann's comparison is one who has temporarily lost it through falling into debt, and as even such a penalty was unknown in Bb., Gressmann's instance instead of falling out to its disfavour redounds in fact doubly to the credit of Bb.

There are many other points under this head equally favourable to Bb. which we must leave untouched. I mark with regret that the comprehensive and able examination of the comparison by Cook in 'The Laws of Moses and the Code of Hammurabi' is marred by what seems to be little short of prejudice against Bb. in particular. I cannot otherwise explain his statement on p. 279, "At what period the Babylonian code first became known in Israel must be regarded as uncertain. Had Bab-

ylonia's influence over Canaan been at all powerful before the entrance of the Israelites...we should have expected to find the clearest traces of the Code in the earliest literature. Such, however, is not the case."

Surely the above instances are 'the clearest traces'; and, surely we have been dealing with the earliest literature, so - he is not convincible by what most reasonable minds would consider clear proof.

Sayce also seems to turn a blind eye on certain facts of the comparison. In his article on CH. in the American Journal of Theology, April, 1904, he remarks: "Customs and usages are mentioned which, as is well known, have no foothold in the law of Israel." And he proceeds to mention the case of Abraham and Hagar. But surely this is exactly the situation represented by the legislation on the "slave-wife" subject. For it is not to be thought that the slave-girl is the only wife of the master. Otherwise a great proportion of his evidence for something like complete independence on the part of Israelite law partakes of the nature of special pleading.

Cook, however, pays Bb. perhaps the finest compliment which it can as a body of legislation receive. And he does it as handsomely as Gressmann does on the point of the prohibition of usury. Referring to that aspect of the lex talionis which in CH. demands that the builder's son must die for the tenant's son killed by the builder's carelessness, and such like, he says it is clear that the people among whom these practices pre-

vailed were still a long way behind pure conceptions of justice."Although this was the prevailing tendency of early Israelite thought, it is a characteristic feature of the Book of the Covenant that it is only the actual manslayer who is put to death and throughout the following centuries the idea of personal responsibility was the prophetic ideal outstripping the practice of everyday life." Thus Bb. has not only the quality of purer intrinsic justice but an ideal that will mean progress during coming centuries and these are real elements of superiority.

II. THE HITTITE LAWS. (Symbol HL).

Another amazing discovery of the greatest importance for our study was that made by Hugo Winckler in the course of his excavations at Boghazkoi, a work which was interrupted by the war and his death.

Among many other relics of the writings of the ancient Hittites he brought to light a collection of Hittite Laws. Both in its agreements and differences it throws an interesting side-light first, on the more ancient CH. but also, if the case may not indeed be put more strongly, upon the old Mosaic law. It presents numerous resemblances to Babylonian, Assyrian and Israelitish legislation.

The fragments so far made known comprise two different Tables, the text of which, thanks to several duplicates, is practically perfect.

A characteristic peculiarity of this Hittite law-collection, the present redaction of which was

presumably made under Chathuschilisch III. (circa 1300-1270), the enemy of Pharaoh Ramses II. or his son and grandson, the Hittite kings Tudschalijasch III. and Arnundasch III., is that frequently "previously" valid and "presently" valid law are differentiated. The newer penalties and fines are much less severe and lower, and often money compensation is substituted for what was previously a much weightier punishment. Thus the impression is given that the collection represents a stage of law-reform and that to a milder character.

Altogether the Hittite Laws, when viewed alongside the nearly contemporary or even younger 'Old Assyrian Laws', show themselves as comparatively more humane. The death penalty is found only in infrequent cases such as sacrilege, bewitching a slave, adultery and sodomy. Not once is murder punished by death to the slayer, but can be expiated by the extradition of a certain number of persons from the offender's household. Similarly corporal punishment is quite exceptional and is restricted to slaves. In very many cases simple fines and other money compensations are specified and towards the end especially the Code develops the character of a legal tariff of fixed prices for domestic animals, metals, food-stuffs, clothing, and pieces of ground.

The regulations are composed according to the formula which we have already seen to be common to both CH and Bb. and number 101 on the First Table, and 86 on the second. The following summary shows the contents:-

TABLE I.

1-6. Murder and fatal assault. 7-18. Injury to the person. 19-24. Slaves. 25-27. Miscellaneous. 28-38. Marriages. 39, 40. Various. 41-43. Military. 44, 45. Various. 46. Borrowing. 47-57. State taxes, &c. 58-93. Theft, breaches of trust, injury to domestic animals (oxen, horses, mules, asses, sheep, goats, swine, dogs, bees). 94-98. Burglary. 99-101. Incendiarism.

TABLE II.

1-33. Theft. 34-38. Negligence. 39-46. Hiring. 47, 48. Various. 49-54. Offerings at Harvest, Sowing-time, &c. 55-62. Various (serpent-charming, repudiation of children, allowing prisoners to escape, tariff for employment of priest, &c.). 63-72. Legal valuation of domestic animals, metals, &c. 73-86. Sodomy, incest, adultery, &c. 86b. Addition to 'Hire of handworker' paragraph.

The recurrence of the formula at the end of most of the regulations: "then he cancels his offence", is characteristic.

Instances of identity with Bb. are observable as follows:-

1. Offence and penalty. Bb. 22:18. Bestiality and death. HL. II. 73. "If a man force (sexually) an ox or a cow, punishment follows; he must die. He may be brought before the king's throne and the king may slay him; the king may also let him live: but he must not come before the king (to petition for grace). (74-76: other cases and variants).

Bb. 21:18, 19. Assaulted man to be got thoroughly cured. HL. I. 10. "If anyone injures a man, maltreat-

ing him and rendering him unfit for work, he must give another man for him, and must bring him into his house; but as soon as he is well again and properly sound, he need only pay him six shekels of silver; but he must also pay the doctor's fee." (I.10).

2. Offence identical: variation in penalty.

Bb.21:26,27. Slave losing eye or tooth in assault receives freedom. HL. Penalty: fine of ten shekels of silver. (I.8).

Bb.21:22. Injury to pregnant woman. HL. "If anyone knocks a pregnant so that she miscarries, if it is the tenth month, he must pay ten shekels of silver; if it is the sixth month, five shekels. So he cancels his offence." (I.17). (Fine therefore fixed, by judges, as in Bb.).

Bb.21:15,16. (and expansion as in D. Seduction: rape. HL. "If a man seize a woman on the hill(s), the man only counts as committing outrage and must die. If he seize her in the house, she too has committed outrage and the woman also must then die. If the man (presumably husband of woman) traps and kills them both, no punishment is to follow."

The interesting regulation on contempt of court (and possibly *lèse majesté*?) may be taken as recalling Bb.21:6. 22:8, through Dt.17:8-13 (Baentsch, *supra*, p.194). HL.II.58. "If any man contemns the King's Court, his house shall become a heap of ruins. If any man contemns the Tribunal of the Highly Revered (high State Board? King?) his head shall be cut off. If a slave equal himself to his master, he shall go into the 'Pot', (instrument or place of punishment).

The state of society is here much simpler than in CH. and bears many more resemblances to Bb. The great detail in the enumeration of the different animals is notable and the bee-culture is especially interesting. (I.58-93). The pastoral element is strong but the agricultural also is not wanting. The code has much to say of the theft of agricultural implements, even of load wagons. As in CH. the scene is laid in a land of canals and water-ways. As in CH. again, the amount of attention bestowed on the unsavoury subject of sexual criminology is significant, and perhaps in no direction is the refinement of tone and spirit of Bb. more outstanding than just in this particular and very emphatic contrast. For Bb. one single mention and no more, is sufficient.

III. THE "OLD ASSYRIAN LAWS". (Symbol AL.)

Otto Schroeder published in 1920 in his 'Keilschrifttexten aus Assur verschiedenen Inhalts' a brochure with the title: 'Altassyrische Gesetze'. These are fragments of Assyrian laws in autograph, which were discovered during excavation operations at Assur only a few months before, by the Deutsche Orientalgesellschaft.

I have been unable to possess myself, temporarily or otherwise, of any material dealing with the subject in any language but Italian and am indebted to the treatment given to it by the able Orientalist C. Furlani, in the 'Rivista degli Studi Orientali' (Vol. IX. 1921-23. Vol. X. Fasc. II. and III., 1924).

In all nine Tables are dealt with and in particular fragments of tables, comprising nos. 1-6,

143, 144, and 193, by Schroeder. But already labours of a philological character expended upon these by Levy and Ebelolf (Berlin), Scheil (Paris), Jastrow (American Oriental Society), Koschaker (Leipzig), Tallqvist (Helsingfors), and Cuq (France) have greatly enriched our knowledge of Assyrian Law by editions, translations, and juridical comment.

Three Tables have received special attention at the hands of these writers.

Table I., denominated VAT10000, comprises, according to Scheil ('Receuil de lois Assyriennes'), sixty paragraphs, although some hold that Nos. 22 and 23 really form one. This table is characterised by the most surprising circumstance that it treats of the subject of women. Penal regulations are followed by precepts of matrimonial law. In every one of them the principal subject is the woman. Furlani is of opinion that for this very reason it could not have been the first Table in order. The first in order he thinks would have dealt with the man, and the first should be the last of all. Koschaker suggests that the title of Table I. was probably, "The Law of Wives".

Table II., known as VAT10001, includes 21 paragraphs many of which are mutilated. It treats of property and real(-estate?) law generally, touching on agrarian law, the regulation of water, and other allied topics. The most interesting of the articles is No. 6, which is at the same time the longest and deals with the acquisition of non-movable property. Tallqvist calls it

a 'Land Act'. Koschaker points out the similarity in the method of stating the commands to that already observed in other codes but remarks interestingly upon a variation. In one regulation at least, No. 40, it is different. No. 40 is a police regulation on women's clothing and it is expressed in the imperative! Because the introductions are mixed he holds that this Table is a compilation, and that it is possible this final redaction is the work of a legislator in some respects similar to Justinian. He further makes the interesting and, it seems to me, justifiable suggestion that it is a private book of law, an 'Old Assyrian Law' Book, because only a private student could have collected all the dissimilar regulations we read concerning women in Table I.

The oath which, according to Table II., article 5, the proprietor of an article stolen from a man's wife in the man's house must take, has become a real 'crux interpretum'.

Table III., VAT10093, preserves only eleven paragraphs much damaged. It belongs either to another copy of the code, or more probably to another redaction because the lines are longer than those of the preceding Table and the language presents some divergences. But this, which is Scheil's opinion, should no doubt be modified by the suggestion of Koschaker just mentioned that it is a collection of laws of different periods and this may be a selection from a different code.

On the question of the date authorities are certain on the one hand that it is at least five

hundred years after CH., and on the other hand that it is anterior to 900 B.C. Scheil gives the round period 1400-1200 B.C. but the general consensus of opinion seems to bear towards a century later and somewhere about 1100 B.C. (See additional note, p. 223).

The points of comparison with Bb. are again evident. The form of statement is the same; the first part of the sentence, hypothesis; the second, consequence. 'If....; then ...'. There are even slight traces of the similar employment of the introduction of the secondary case by 'nā', and as we have seen the form of simple command is also here. Common subjects are: deposit, the slave concubine, and sexual morality and these could doubtless be much increased by a fuller acquaintance with the contents. It is pretty clear that only civil law and not religion is dealt with. On the whole it is most remarkable how many points of contact it presents not only with CH., but with the legal formulae and the subjects of legislation particularly in the most ancient corresponding literature of Israel.

Scheil does not permit himself to pronounce upon the character of this collection of laws and only observes with CH. and AL. before his mind, that the two documents lend themselves to interesting comparisons which are all to the honour of the Babylonian society of the year 2000 and less flattering to the Assyrian society of many centuries later. I suggest that he may be doing the latter some injustice if AL. is, as seems likely partly at least a collection of laws of more ancient date than its own. But whether that be so or

not, recalling what has been said above as to the relative merits of CH. and Bb. (p.212-215), we may take the judgment of Scheil to imply an indefinitely higher superiority on the part of Bb. to the "Old Assyrian" Laws.

The significance of these discoveries will be more fully explored in the next chapter.

Additional note to "OLD ASSYRIAN LAWS".

Cuq, on the other hand, thinks that these laws were most probably promulgated by a king of the potent dynasty of Assur-uballit. He does not treat it as a true and proper codex; it seems rather to be composed with the help of judgments given by the king or his deputies, and which have received the force of law.

Two species of matrimony are specified, 'cum et sine manu', according to which the wife went to live with her husband, or continued to live in the house of her father. Article 31 records the levirate custom consecrated by Moses (Dt. 25:5-10). According to this author, the Assyrian 'tirhatu' resembles the Heb. 'kethubta' and the German 'dos ex marito'.

CHAPTER VII.DATE.

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CHAPTER VII.

DATE.

A. INTERNAL EVIDENCE.

B. EXTERNAL EVIDENCE.

We are now in a position to approach the question of the date of Bb., a question which, it is not too much to say, has hardly as yet been seriously investigated. All that has been done may be described as mere hasty generalising inference from such internal evidence as the document itself was presumed to offer. Even this evidence, superficially examined, was misconstrued and it was only natural that the conclusions to which critics have come should turn out to be altogether groundless. Probably of all the injustices that have been heaped upon Bb., the most glaring is this, that a document of prime importance for OT. and otherwise should have been treated as not worth the trouble of anything better than a hasty and superficial investigation of its claim to a Mosaic origin.

Baentsch, as is well known, gave Bb. probably the most comprehensive and searching analysis it has ever received at the hands of an experienced critic; but his treatment of the question of the date is amazingly vitiated not only by his reasoning on false premises, which the new light might have prevented, but

by contradictory conclusions and errors of statement, as we shall see.

Taking his short concluding chapter, we find him arbitrarily coming to the convinced idea that David's reign first afforded the necessary peaceful period for the making of laws. On the other hand J knew the mishpatim, therefore they must have been in existence in the ninth, certainly before the eighth century B.C.

The debarim depended entirely upon the prophetic element and though older than the mishpatim were first associated with them in the eighth century. And that is in effect the whole of the argument for the date of this monumental production of the early Hebrew Literature.

In the course of it we have a piece of reasoning like the following.

"Jedenfalls haben wir in Bb. eine der ältesten Gesetzsammlungen vor uns. An Alter wird dieselbe wohl nur übertroffen durch den Dekalog Ex. 34, jedoch nicht in der Gestalt, in der er uns jetzt vorliegt, sondern in der, wie sie uns in Ex. 23:17-19 wenigstens theilweise noch entgegentritt."

It will be remembered that we were called upon in considering what was genuine Bb. to believe that these verses mentioned were a pure import from J", the younger borrowing from the older. Now we find that we have really to go to the younger source for the older material. The entire process in short is something like this. First we fetch the older material from the older source and put it into the younger. But having

done this we find that what was already in the younger source was really older; so we must ascribe the really to the reputedly older in order that the reputedly older, which is in this case obviously in the critic's mind not the really older, may continue to be reputed older although it is not really older!

To such fatuous reasoning and desperate straits has criticism often reduced its leaders when they have become the victims of a theory or belief-which a simple and straightforward and unprejudiced examination of the facts could have proved to be erroneous. It seems so much more simple and true to say at once that the older is older.

We take up first the

A. INTERNAL EVIDENCE.

The indications that in Bb. the national development of Israel is at an early and simple stage are too clear to be mistaken and most of them have been often pointed out.

It is seen that there is no trace of a sovereign's rule or of a state; no reference to secular judges or officials (Sellin, op.cit. p. 44); no reference to trade or commerce (Benzinger, Enc. Bib. 2716; 'OTJC' p. (and especially, 2727.) 350); the ass is still the domestic beast of burden and the horse, as Gressmann points out ('SAT'. II. 1. p. 223), not yet upon the scene being first introduced as a substitute in the reign of Solomon.

These, however, are but negative indications, no matter how obvious and well-supported.

For the positive evidence in its real bearing I may be allowed to appeal to the ground I have already covered (pp.133ff.supra) in showing the actual nature of the conditions under which the legislative content of Bb.proves the people to be existing, and the state of society therein unmistakably disclosed. The community was specifically a pastoral, and not specifically an agricultural community. Agriculture was not, of course, unknown; but it was not the staple industry as it became later for which, as we have seen (p.195 supra), we have the testimony of D. The essential connection of agriculture in Bb. is with the feasts and in the main it is as the basis of legislation for the feasts that we have the subject before us there. In other words, though both agriculture and the feasts are well on the horizon, they are both in the main as yet prospective. That, it seems to me is the true evidence of Bb. as to the relative position of the pastoral and agricultural elements in our document. The emphasis is not on agriculture; it is elsewhere.

Now all the arguments of all the critics for the dating of Bb. in the time of the early monarchy or later, - Gressmann, ('SAT'. II.1.p.223. Solomon's reign); Kent, ("Laws and Precedents", p.23. Solomon); Cornill, ('Intro.' p.131. Early regal period); Benzinger, (Enc. Bib. 2716. 9th cent.); Gray, (Enc. Bib. 2731. 8th cent.); Moore, (Enc. Bib. 1448. 7th cent.); Wellhausen, (Enc. Bib. 2051. After disruption of kingdom); and Driver, ('Ex.' p.1xiii: least positive as to Canaan conditions and

states "nucleus no doubt Mosaic.") - though why they should even put it so late as the monarchy when they see no mention or inference of it, they best know - are based upon what they hold to be evidence of such settled conditions as the agricultural situation in the first and foremost place is said to present. And it is because this is obviously the crux of the date question that I have dealt with it at length in this Thesis.

Baentsch, who may again be taken as representative, has no stronger argument than that Bb. presumes the 'Sesshaftigkeit' (settled state) of the Israelitish people; and all the other details which he offers in proof of a too advanced civilisation for an early date crumble at a touch from the holder of a different and a juster point of view. Especially is this the case when he mentions among supposed corroborative details that "they dwelt in houses". And here I observe that he fully justifies my expressed suspicion (p.62 supra) that he, as well as Rothstein, fails to observe the vital point that it is a cattle-thief that is spoken of in 22:1, for he cites this passage as a reference to a dwelling-house! The only other reference he can produce to a 'house' ('Bundesb.' p.4f.) is 22:6, a casual use of a very general term for a dwelling-place from which nothing at all can be indubitably inferred as to its form or construction; and does he forget that in the Book of Job, whose scene is laid in purely nomadic surroundings, the dwelling-place of Job's sons is a 'house' and the mention of it occurs moreover in the very oldest part and

form of the narrative. A reference to the lexicon is sufficient to show that נֶזֶד is used of a tent, or of a nomad's hut. (Jb.1:19, &c).

His allusions to 'coined' money, again, are a pretty obvious anachronism. Indeed it is hardly too much to say that the special passages upon which Baentsch builds as being evidence of advanced social conditions are clear evidence of the very opposite.

It might be proved, and certainly critical theories of a much more outré character have been accorded acceptance, that a purely theoretic knowledge of agriculture could account for all that appears about it in Bb. But it is not necessary to go so far. When the previous history of the people is considered it becomes plain that for all the agricultural element upon which so much is founded nothing more was required than the knowledge and experience acquired by the people during their residence at Kadesh.

According to the older tradition recounting the doings of the Israelites after the exodus from Egypt, (Ex.16-18; Nu.11ff.), and this has been forcibly elucidated and confirmed by Wellhausen, ('Hist. of Isr.' p.439); Holzinger, ('Einl. in d. Hex.' p.176); and especially Gressmann, ('SAT'. I.2. p.93f.), it was at Kadesh that the people spent practically the whole forty years of the so-called 'wanderings'. I have taken some pains to ascertain the real nature of that locality and find that as a matter of fact at Kadesh, ('Ain Kadēs) "the Hebrew nomads had as their common centre a large and fertile oasis", indeed "a singularly fertile and attractive oasis where cereal

crops even, in small quantities, can be raised in the neighbourhood," where there are "two other fertile valleys and a vast roaming ground southward and westward." (Gray. Art. 'Wanderings, Wilderness of', Enc. Bib. 5260f.). If this is its character today, the area and fertility of the oasis are almost bound to have been greater then. Even if much of it was not arable, it is a fact of equal truth and equal importance that a good deal of the land of Canaan, and especially in Judah, was not arable. (Addis. 'Hebrew Religion', p. 82). In any case it is not to be believed that the people either could not or did not practise as much of the agricultural phase of industry at Kadesh as is traceable in Bb. And thus all the arguments of all the critics might equally well be taken as proving conclusively that Bb. could not have been composed before the 'Wanderings' (but might very well have composed then!).

But if the argument from agricultural conditions thus fails, and if, as we have seen, the essential association of the feasts rests there in the legislation, there can be no difficulty remaining with regard to the possibility of the institution of the latter prior to settled conditions in Canaan.

There is still, however, another reference to a בַּיִת in Bb., which Baentsch does not mention, and that is בַּיִת יְהוָה, 23:19. This has actually been used as an argument for a late date on the ground that this expression implies the existence of the Temple. It is hardly worth while to confute it. If the term 'house of 'י, or

'house of אֱלֹהִים', is to be construed as 'the Temple' whenever it occurs, then we read in Ju.18:31, that the Temple was at Shiloh and Micah's graven image was set up in it; and Jacob said after his dream: This is none other than the Temple! The idea is wholly incongruous with the entire situation before us in the document as well as with the habit of thought and expression of the Source where the term implies nothing more than a tent of worship, or even less definitely, the locality associated with a religious experience.

The argument from long settled conditions and advanced civilisation can not in fact be drawn from this document. The internal evidence in this respect has all along been improperly read. I find myself corroborated in this conviction by Sellin ('Intro. to OT.' p.43).

I am justified in saying so because I had arrived at these findings before his book came into my hands.

The conditions actually reflected from Bb., as well as its language as we have had good reason to conclude, suit the earliest date we can assign to any OT. document - and that is the age of Moses.

Two other supposedly weighty arguments have been falsely named as 'internal evidence' - the prophetic and humanitarian elements - only there by illegitimate importation from D. These have been sufficiently dealt with above (pp.139ff. and pp.142ff.), and the treatment would be in place here in consideration of the date question. Both 8th century prophecy and Deuteronomy are still far in the future and such a conclusion could be clearly

drawn both from the evidence and the independent character of Bb. even if there were no other grounds of history to found upon.

But the most decisive aspect of the whole of the internal evidence is the standpoint of the author himself. The internal evidence in the hands of the critics hitherto has amounted to this: Bb. received its fixed literary form at some date in the time of the monarchy; its laws were the gradual and natural accretions of time and experience; some of them show traces of being old and with a few the name of Moses is to be (tentatively) associated. Is the question then never to be asked: May the text be allowed to speak for itself? Here I hold it is not only to be asked but to be answered in the affirmative. Yet so far as criticism is concerned it may be said the document has been treated as if it had made on the face of it an obviously fraudulent claim.

I submit that the Book of the Covenant is the actual composition of Moses; but the proof, at this date, will be best led from the point of view of the external evidence.

B. EXTERNAL EVIDENCE.

The subject of Babylonian and Assyrian influence upon Israel is a wide and fascinating one. That influence seems likely, from all indications, to prove far more extensive than the most eager Orientalist can yet show.

We have already had some evidence of this influence before us when dealing with the comparison of

Bb.with other codes. Here we must now take notice of the testimony of the Tell Amarna Letters. The discovery of these 300 letters in a jar at Tell Amarna, the capital of Egypt in the days of Khun-aten, the father-in-law of Tutankhamen, made 1887 a red letter year in the history of archaeological exploration. The letters which are all written on tablets in Babylonian cuneiform are either to or from Amenophis III. or his son Khun-aten, - of date therefore about 1450 B.C. - their correspondents being subjects or auxiliaries, in Asia Minor and more especially Syria, of these kings. Seven of the letters indeed are from Abd-hiba, king of Jerusalem. (Gressmann: 'SAT'. I. 2. p. 8. Naville. p. 145). 1450

The phenomenal significance of the discovery would be hard to exaggerate. The pronouncements of authorities run as follows. "Canaan in the middle of the second millennium B.C. was replete with the civilisation of Babylonia." (Gunkel. 'SAT'. I. 1. p. 86). "The language of commerce and diplomacy in Western Asia was Babylonian cuneiform." (Naville. op. cit. p. 97). "The influences of the civilisation of Babylonia overspread, since the earliest times known to us, also the region of the later Bible lands." (Jeremias. 'OT. and Light of Anc. East'. vol. p. 319). "The Mosaic age was one of high literary activity and all parts of the civilised world of the time were bound together by ties of literary intercourse." (Sayce. Art. cit. Introductory paragraph).

The influence of Babylonia on the early literature of the OT. is not questionable by any unprejudiced mind. It will hardly be necessary to enumerate

the following well-known traces which I give with the pages on which they are treated by Delitzsch in his 'Bible and Babel':-The flood story(42); the Fall(55ff.); the Sabbath(40f.); angelology(63); monotheism(75); the Decalogue(191); while the valuable conclusion may be noted that the tradition of the MT. has been re-established again and again by the comparison. (Cf. Gunkel. 'SAT'. I. 1. p. 6).

Mention should further be made of the fact that, in his remarkably full and able article 'Covenant' in the Enc. Bib., Nathaniel Schmidt makes the most interesting suggestion, for our consideration, that the word בְּרִית itself may be of Babylonian derivation.

Attention has before now been called to the parallelism pointed out by Jeremias (vol. I. p. 225) between the Shurpu exorcistic ritual and the faults violating the second, third, and tenth commandments of the Decalogue, some even in the order there found.

Furlani, the able Italian Orientalist already referred to (p. 219), in discussing a work by Weidner on ancient Accadian hymns notices the author's conclusion that the author of the Hebrew psalms must have known the Babylonian psalter. ('Rivista d. Stud. Orient.' vol. X. p. 293f.)

So far in this section no account has been taken of the Babylonian influence on the special type of literature with which we are here principally concerned, namely Law Literature. All that positive influence therefore which we have observed above in the comparison with other Codes has to be taken as a corporate addition to that on the general literature.

With notable force and frequency, in successive insurgent waves concentrating upon the period of our study the proof has been borne in upon the minds of men - CM., 800 years before the Mosaic period; Tell Amarna, 200 years before it; HL., the Mosaic period; AL., just after. All scholars acknowledge it. Gressmann is positive; ('SAT'.II.1.pp.224,231); but it must come through Canaan. Kent is sure of it ('Laws and Precedents' p.6) but he is not sure, apparently when to apply it, and so with many others. The laws reveal it. The identity in many points both in form and in substance could not be more marked. "All this does not tell us that the Hebrew legislator read the Code" (Johns.HDB.Extra Vol.p.61Of.). One wonders what would satisfy some minds by way of proof. All the evidence submitted for direct Babylonian and Assyrian influence leaves nothing unsaid but the statement which Johns seems to desire someone to express!

It is time to face the facts. The date has passed when Israel was considered either too segregated or too sacred to be influenced by any but a heavenly power. It played its part manfully in the early comity of nations influencing and being influenced by them under the overruling providence of God.

And with the passing of this now obsolete idea passes also the last shred of the misread 'internal evidence' that the laws would require an age-long sojourn and experience for their making. There was sufficient knowledge in the mind of one man of things old and new but all pertinent to the situation to frame this

Code. Gunkel remarks with satisfaction ('SAT'.I.1.p.9) on the credit accruing to the soundness of the principles of Pentateuchal criticism from the fact that the Hebrew law-book which is in greatest agreement with the oldest known Code (CH), is precisely Bb. which had already been declared on other grounds the oldest among the Hebrew law-collections. The boast is justified; but events have marched quickly and Sellin too is justified in his assertion that the discovery of CH. and of the Hittite Laws marks a new stage in the critical study of Bb.; but events have been marching so rapidly that even he was not in time to note the third momentous discovery of the Old Assyrian Laws. If he is justified in saying that all that the Israelitish law-giver needed to do was to revise a code of laws which had been current throughout the whole of Western Asia since the beginning of the second millenium B.C., the justification is all the greater at this later date.

There are only three imaginable ways in which Israel could escape the influences we are considering. First, if it were the only nation in existence; and while the idea is absurd one gets the impression that that idea seems to possess the mind of some writers. Second, if it did not exist at all; about the only way it could have completely escaped. And third, if it existed in some strange and silent groove of its own on the earth in absolute isolation from the possible impact of all other nations. No scientific or philosophical interpretation of history will permit such a thought and the

only alternative is to face - and acknowledge - the facts, and these facts establish beyond all manner of doubt the direct influence of Babylonia and Assyria on Israel.

Indeed we must cease in these days to speak at all of Israel as an ancient nation. The traditional view of Scripture history as that of the first, or one of the first extant peoples, which persisted popularly up till a quite recent period is hopelessly obsolete yet apparently hard to eradicate. And not many are prepared to realise, as must soon generally be done, the vast backward expansion of our knowledge of really ancient peoples. For this backward flight the Code of Hammurapi is but a starting point and the imagination is stimulated by such suggestions as those of Kent ('Laws and Precedents', p.4.) (Cf. Gunkel. ('SAT'. I.1.p.6). But this means when we study the OT. story we are reading not ancient but comparatively late history, and Wellhausen and some of our own scholars who followed him are now known to have been in error when they asserted that the story of the patriarchs was impossible. (Jeremias. 'OT. in Light of Anc. East', p.45. vol. II).

But if Israel was influenced by one great body of peoples it must have been equally open to the impact of others as well. So far we have said nothing of the influence of Egypt; but as we approach the great figure whom we are to associate with the authorship of Bb. this becomes inevitable.

And here mention may at once be made of a series of important discoveries by Sellin himself at

Ta'anak. It is impossible to go into details, but the general fact is now established (Marti. 'Religion of OT'. p.72ff.) that the influence of Egyptian civilisation at this early period (from 2000 to 1000 B.C.) outlasted the Babylonian and was still very strong at the time when Israel conquered the country. "This conclusion is in complete harmony with all that the OT. tells us as to the history of Israel." Again the story is a fascinating one, the chief impression that is left being that in all probability the interchange of ideas, between the three nationalities in consequence of the common employment by all of the script of one, and indeed the intercommunication on general lines, was much wider and fuller than our present scanty knowledge in itself indicates.

In short, whether in Egypt, in Kadesh, or in Canaan, Israel was under the potent influence of the greater East all the time.

The march of ideas concentrates upon the Mosaic period. I think that may with justice be said of all the consideration and arguments of this Thesis.

The march of ideas concentrates upon Kadesh. That seems true of the workings of the mind of all those who have given serious thought to the vital beginnings of Israelitish nationality. Most interestingly does Benzinger (Art. 'Government'. Enc. Bib. 1904f.) show how at Kadesh, it seems, the union of the individual tribes was effected; at Kadesh, the religion of Yahweh was unitedly accepted; at Kadesh, both these events were solemnised by a covenant; and at Kadesh the one great leading

personal name was that of Moses. These positions are of course shared by many other writers notably Wellhausen ('Hist. of Israel', pp. 343, 439) and Gressmann who makes another 'Entweder - oder' of the Sinai or Kadesh sites. ('SAT'. I. 2. p. 92f.) Nevertheless, it is striking how fully, and in the older tradition of the text, how completely the Israelitish tradition agrees with all this. The Israel that we know had its roots at Kadesh.

The march of ideas concentrates upon Moses. His historicity and personality are admitted on all hands. All that has been said of the influence of Babylonia and Assyria was reflected in his personality. But he knew Egypt and its highest culture as well. He was therefore, with all else, cosmopolitan. In a period of "lively interchange of ideas", he was a man above all for the task assigned to him. No valid reason can be produced why such a personality should be denied the authorship of this legislation.

It seems almost unbelievable that as recently as 1892 a leading critic (Schultz) could say: "the time of which the pre-Mosaic narratives treat, is a sufficient proof of their legendary character. It was a time prior to all knowledge of writing." (Neville. op. cit. p. xx). Though he could not know that the Babylonian cuneiform was universal in the East, his words are a striking example of positive assertion without knowledge.

Finally, I may be permitted to rest my argument for the actual Mosaic authorship of Bb. on the same ground as Dr. Charles's for the Decalogue. In his recently published work, p. xlviii, he says: "Before E. and J. were

written, the Decalogue existed - each commandment consisting of one clause expressed in few, clear and crisp words - in the tenth century or earlier; and if so, there is no outstanding personality to whom this Decalogue can be ascribed other than Moses."

But if this be true of the comparatively simple Decalogue, it must needs be truer still of this imposing body of laws. And once more to bring the OT, agreement into view I recall here the interesting fact referred to on p.45 supra, that J and E both agree, if only at one point, in ascribing the preparation of a documentary record to Moses.

Here, then, we stand without a doubt at the beginning of an epoch for the Israelitish people. It may not be all quite so plain as it reads apparently in OT. Moses may not have led every Israelite out of Egypt, and Joshua may have been more nearly identified with the Joseph tribes than others (Burney. Schweich Lectures. 1917); there may have been a colony in Musri (Winckler. Art. Hib. Journ. Apr. 1904); doubtless there is evidence of a 'dispersion' at this early date in other parts of Egypt and elsewhere (Jirku. 'Wanderungen der Hebraer'. Der Alte Orient); but here at any rate stands a great representative national nucleus, if not politically yet religiously united by their common faith in Yahweh, having left Kadesh behind and now on the border of the Promised Land and with their faces to it, and about to begin a new and a national era within it.

It was only fitting that they should approach

the new epoch and the new experience with a consolidated body of guidance for their corporate religious and social life from the hand of their leader under God and that consolidated body of legislation, I am convinced, lies before us, largely as it came from Moses' hand, in the document that has here been under consideration and is known as the BOOK OF THE COVENANT.

Let it never be thought that all that Moses did was, as may have been suggested by what has been said above, to edit a revision of any current Eastern code. That would be to stultify all that this Appreciation stands for. Anything that Moses touched must be ennobled. That was the property of his genius. His genius was first and foremost, a religious genius. For to him more than to any other single human personality, as the history of Israel makes clear, Israel's religion owed its distinguishing characteristics. And Israel's religious genius was unique and provided its chief contribution to the world's order of thought. (Cf. Marti. 'Rel. of OT'. Preface; pp. 64, 65; p. 241).

It is granted first and last, that Israel in this regard was absolutely independent of all other nations - even while it borrowed widely from them. There need be no fear of such paradox, for history, like life, is full of paradox. And the way in which Israel proved its independence was to infuse with its own genius its borrowings from the old and transform them, ipso facto, into something new. The Book of the Covenant, combining these elements, radiates the spirit of Israel's religious genius to this day.

CHAPTER VIII.

SUBSEQUENT INFLUENCE.

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CHAPTER VIII.

SUBSEQUENT INFLUENCE.

This chapter will seek to set in its true light the influence which this Code, of primal import for Israel and in no unreal sense for the world, has exercised in the wide sphere indicated in these terms.

Bb. has suffered more injustice than any document of equal value and significance that the world knows; and that has been its fate, in the first instance, because of a false theory of inspiration which, supposed to be honouring to God, was really the reverse. The traditional view of the Pentateuch, blindly and to its own everlasting discredit, buried Bb. as soon as it came into existence; superseded it before it could act; and relegated it to the lumber-room of useless and forgotten things - this precious jewel, one of the most Living Words of God! It is no wonder that "the Book of the Covenant of the Most High God, the law which Moses commanded us for an heritage," as even the Son of Sirach, I claim, describes it, has played no conspicuous part in the religious economy of the world that the common man can see. In reality, however, its influence, for a document of such slight dimensions, has been nothing less than phenomenal upon the religion of Israel and the world.

There is doubtless a supplementary reason for the absence of that high prestige which is Bb's due, in the fame and popularity of the Ten Commandments. All the world knows these. But it is not difficult to understand how this more nimble rival should have outstripped in fame the more comprehensive collection of laws coming from the same hand. They could be memorised with ease and passed from mouth to mouth; and to the high advantage of the world their content was as spiritually valuable as their diffusion was universal and abiding. The other required reading, study, administration. It was less calculated to make an immediately popular impression; and there was never any thought that it could be otherwise. Nevertheless, its influence too was immediate; its influence too was immensely powerful; its influence too was abiding and permanent. In short, its subsequent influence may without exaggeration be described as second only - if that - to the influence of the Decalogue itself.

Various methods may be adopted by way of disclosing the influence of Bb.; for example, an examination of the passages quoted in any Reference Bible. A glance at such a work shows that Bb. is probably the most be-referenced portion of the entire Scriptures. Or, one may read the Bible for oneself with a view to the very necessary revision or supplementation of such a survey. I have done both and give the number of what are to be considered genuine references as 220. Opinions of course as to the genuineness would be bound to differ. I give

the numbers for what they are worth, simply as an interesting possibility and lay no stress upon them.

The proper method would seem to be to follow the history of the nation along its now recognised course and observe the part that Bb. has played in the development of that history, affecting as it does, events, movements, institutions, personalities, - all of the most outstanding importance and bearing for and upon Israel and the world.

In this survey it will, of course, be essential to observe and to follow what may be called the new historical setting which one is tempted to set forth here in detail but in any case it will emerge in the treatment. Further I call attention to the conspectus of periods submitted above on p.16, with the remark that it is necessary to realise the extent of the period throughout which Bb. was, apart from the Decalogue, the only body of laws current among the Israelitish people that had the sanction and authority of the great name of Moses. It is the submission of this Thesis that the whole of the significant Prophetic testimony of Israel up to the Exile rested itself on Bb. It is my contention that Jeremiah discarded Deuteronomy and appealed on the contrary side to Bb. and if he did, the probability is that the lesser prophets Zephaniah, Nahum, and Habakkuk did so likewise. Anyhow all the others did for they were pre-Deuteronomic!

But if all these prophets founded upon Bb., and that is part of the true historic setting, it is clear that Bb. owed nothing to them, though D. did;

and this cannot be too frequently insisted upon. Bb. was sufficient in itself to inspire their ethical humanitarianism. It may be said that they themselves acknowledge it, and as a matter of fact we have seen D. to be rather less humanitarian than Bb. If there is to be a strict dissection of the merits of the two in this respect, D. marks a declension rather than the commonly too much exploited superiority. This may be 'heresy', but it seems to me plain historic truth; for Moses was a greater prophet than they all.

The extent of the period of effectiveness of Bb. may have to be increased in a backward direction in consequence of another consideration. This is, I think, very justly indicated by Baentsch in a fine exhibition of historical insight and imagination. In speaking of possible variations of some of the mishpatim to be found in the narrative of J, he says that these but emphasise the standing rule (of the herd making good lost or destroyed sheep). "People", he goes on to suggest, "may have regulated themselves by it as far as one can think back." Considering that these words were written long before the very ancient laws were discovered that prove him to have been right, it is to be judged a very happy and clever piece of reasoning. And when it is seen that the slave-wife status was extant and no doubt legislated for, and that blood-shed was regulated according to the law of talio (Gn. 9:5,6) in patriarchal times, there appears to have existed a Bb. before Bb., and we may be allowed therefore to speak perhaps of the retro-

spective influence of our document. (Baentsch.'Bundsb.' p.120). So much for the 'ineffective if Mosaic' argument!

That Bb. was far from being a dead letter was pointed out by W. Robertson Smith long ago[@], although it[@] ('OTJC' P.344.) was not his purpose to give more than sparse and passing proof of it. The promise and potency of Bb. in this respect have been already hinted at, but no more, in the note on Bb. as the 'Code of Origins', p.157f. supra.

The following survey will show how Bb. influenced the HISTORY, LAW, PROPHECY, and LITERATURE of OT; how it persisted through the intervening period, as witnessed by the APOCRYPHA; and how its influence reappears and is as evident as before, in the NT. period; on JESUS Himself; on the EARLY CHURCH and its administration; and in the inspiration of some of the highest thought of its APOSTLES and TEACHERS.

We begin with the book that records the doings of Moses' immediate successor, Joshua.

Jos.1:4. The delineation, in the words of Yahweh, of the promised territory is, with slight variations, that of Bb. (23:31).

Ch.2:9-11, is Rahab's description to the spies of how the fear (יִרְאָה, Bb.23:27) which Yahweh had promised would accompany the Israelites, had actually fallen upon the people of the land.

Ch.5:13-15. The Angel-Captain of the Lord's hosts (Bb.23:20) appears in vision to Joshua.

Ch.8:30-35. At Mount Ebal, near Shechem, an altar, after the specification of Bb. (20:24), is set up, and

Bb.is read by Joshua to all the people.

Ch.20:1-9. The appointment of Asylum Towns was naturally made as soon as the promise recorded in Bb. (21:13) could be kept. The 'cities' are here named and their 'raison d'être' repeated. The language of Bb. is directly reflected in these verses.

Chh.23,24. The closing address of Joshua to the people in these chapters reproduces in many instances the words and phrases of Bb.; the following being notable:-

Jo.23:7 and Bb.23:13. Jo.23:13 and Bb.23:33.

" 23:16 " " 22:19, "24:8,11 " " 23:23.

" 24:12 " " 23:21.
" 24:12 " " 23:28. " 24:19 " " 23:21.

Driver points out ('Ex.' p.370) the direct relationship in one of these pairs, but I find no reference to any of the others.

Next we take up the book and the times
of the Judges.

Ch.2:1-5. The Angel of the Lord appears to the people, remonstrating with them in the very words of Bb., and rebuking them in many of the exact terms of the Conclusion. The people thereupon repenting, themselves sacrificed where they stood at Bochim, a circumstance only possible on the ground of Bb.

Ch.6:7-10. A prophet recounts God's dealings with the people so far; refers to their failure to refrain from intercourse with the surrounding nations; and charges them with disobedience - all for the most part in the words of Bb.

Ch.6:19-24. Gideon, at the bidding of an Angel of the Lord, makes an altar of a large natural stone, after the description in Bb., by the oak at Ophra and afterwards erects a more permanent one.

Ch.8:33. Ch.9:4,46. As soon as Gideon was dead, the people turned aside and made a 'Baal of the Covenant' their god. This is undoubtedly a corruption, due to Canaanitish intercourse, of the idea native to Israel that Yahweh is the only Covenant-God. This is further an interesting commentary on Baentsch's words, p.45 sup. (Cf. also p.127 supra).

Ch.13:9. Manoah, the father of Samson, offers a kid in sacrifice upon a large stone (in accordance with Bb.) to the Angel of the Lord who foretold the birth of the child.

Ch.17:5. The ease with which a layman might be constituted a priest - as Micah made one of his sons - was only possible on the ground of Bb.

Ch.19:19. The אִמָּה, 'thy (the old man's) handmaid' is אִמָּה and אִמָּה, but never אִמָּה. This is in accordance with the principle of Bb's usage of the word.

It is to the period of the Judges moreover that we must assign the Shechem 'Decalogue' which is to be assumed as a new element in our consideration.

This has already been discussed to some extent, but it may now be observed in addition to what was there said, (pp.191ff.), how the criticism of Driver ('Deut.' pp.294-302) fits in exactly to the conviction that it is the institution of the Book of the Covenant

that is described in Dt.27.,and not that of Deuteronomy itself.

Driver sees the difficulties and details them with precision;but he is unaware of the solution."It is hardly possible that the chapter can form part of the original Dt." Vv.1-4 and 8 belong closely together relating to the stones and to what is to be written upon them; but they are interrupted by vv.5-7 which relate entirely to the altar, (the exact specification,as well as the exact language of Bb.). The former abound with marks of the Deut.style; the latter is free of these marks. "It seems that an older injunction respecting a sacrifice on Ebal has been taken up by D...and combined with the instructions,written in his own words,for the inscription on the stones.. These are to be set up immediately after the passage of the Jordan... V.4.seems clearly to contemplate the occupation of Canaan as still future." Hardly anything can be plainer than that D.has here adopted a description belonging to E of the institution of Bb. and used it as his own to apply to Deuteronomy.

Then D.goes on to describe the ceremony and the ritual connected with it. We may use Driver's words with the exception that where the 'law' is mentioned it is to be taken as designating Bb.and not D. "This inscription of the Code is intended as a declaration on the part of the people made as soon after their entry into Canaan as possible that it is the rule under which in future they elect to live,while the laws inscribed upon the slabs remain as a permanent record of the fact."

"The nation's public acceptance of the law in Canaan is to be marked by religious ceremonies (Ex.24:5.11). The representation cannot be destitute of a historical basis: no doubt at the time when E.wrote there was such an altar on Ebal,together with slabs of stone inscribed with parts of the law,which tradition told had been set up there shortly after Israel's entrance into Canaan."

These guesses are almost uncanny! Not many things can be surer about old historic events than this about Bb.

Proceeding,Driver says with regard to the Shechem 'Decalogue'- the word should always be 'Dodecalogue' if it were not so much of a solecism - "Had the imprecations been the work of the author of Dt.,it is natural to suppose that they would have borne some definite relation to the Deut.legislation" and he indicates how clearly they do not. "The list being thus constructed without special reference to Dt.,it is probable that it is in reality not the work of the author of Dt. but an old liturgical office,used on solemn occasions,which has been inserted by a later hand in the text of Dt."

The words underlined were a discovery to me startlingly confirming the theory I am submitting of a periodic celebration of the institution of Bb.at which the ritual was used. Though the insertion is late,the ritual itself is,of course,earlier. To think otherwise,as Sellin points out (p.47),is to turn history upside down. The mere fact that Levi is still a tribe like the others proves its early date. According to Cornill('Intro.' p.68.Sellin.p.46) and others the bulk of the chapter,as

we have seen, is admittedly E. It is most natural to think, however, that in the course of the years after entrance, in consequence of increasingly settled conditions and especially of growing Canaanitish corruption, the ritual would be modified from time to time. This is reflected indubitably, it seems to me from the items themselves. The former is seen in the imprecation upon the removal of the landmark. As to the latter, we have seen how widely diffused unnatural sexual depravity seems to have been in the East. For the first time in Israel that takes the most prominent place in what may be called a law collection, so much so that Gressmann names this piece after its most distinctive feature. (Supra p. 191f.) But seeing this is so, the traces of corruption are more obvious by far than he suggests. In their modification in this respect of the digest of Bb. which formed their ritual on each annual occasion, the law-givers would not have far to seek for a model. They could find it in any of the codes of the time.

Again the march of ideas concentrates upon Shechem, on Shechem whose importance has been strikingly described and dwelt upon by Sir George Adam Smith ('HGHL'. pp. 332-334); lying between Ebal and Gerizim; the first town to welcome the incoming traveller from beyond Jordan; from its geographical advantage, the natural capital of the Holy Land; the only sacred site mentioned in the book of Deuteronomy; today, the seat of government of the province.

It was here that a great inaugural ser-

vice was attended by all Israel on taking possession of the country, as recorded both by E. (in D.) and Joshua. It was here at this great initial national service that Bb. was inaugurated, inscribed, and read. It was here that the inauguration was no doubt annually but at least we may gather, periodically celebrated by a ceremony in which Bb., the Law of Moses, was read in digest in the form of a regular ritual office although the history is silent as to how long this periodic celebration was maintained. And it was here, as we shall see, that Jesus Himself set His seal to the inherent spiritual element in Bb. by enunciating the highest spiritual conception of worship that the world knows.

These considerations clearly prove the primal import and significance of Bb. and they should have the effect of rehabilitating the Book of the Covenant in the original prestige it enjoyed in the minds and history of the Israelitish people.

We pass on to the times of Samuel and the Monarchy.

W. Robertson Smith points out ('OTJC'. p. 344f.) several of the immediately following instances of the effectiveness or contravention of Bb. in this period.

1S. 2:16. Eli's sons delay to burn the fat of the sacrifices. (Bb. 23:18).

Ch. 2:25. Eli makes reference to the appeal to God as judge.

Ch. 6:14. Laymen sacrifice where they stand. (Bb. 20; 24).

The following cases of the same kind may

be noted:- Saul, 13:9. David, 2S.6:13 and 17; 24:25.

Ch.8:3. Samuel's sons' crimes included the taking of bribes (Bb.23:8) and the perverting of justice (Bb.23:2). (N.B. Reference Bibles cite Deut. in these and many like cases. It is of course historically impossible that the reference should be to Deut. The fact that the reference is so indicated is only another proof of how completely the traditional view has buried Bb. in the Pentateuch).

The main reference to Bb. in Samuel is in his address to the people before his death, where he undoubtedly quotes our document. He speaks, it will be noted, of accepting a bribe which 'blinds the eyes'. עִפְּרָה is used thus only in Bb. and P. and it cannot, of course, be from the latter. He speaks further of 'oppressing' and 'defrauding'; of stealing ox or ass; of finding nothing 'in his hand', a phrase only once or twice used altogether and up till now practically alone in Bb, and with the 'technical' sense we may call it, of theft. There is also the phrase that we have seen may be taken as technical, namely, 'this place' for the land of Canaan. In addition there are several phrases simply lifted out of the Conclusion and, in v.25, an inf. abs. to finish! There can be no doubt of the familiarity with which the leaders of the people assimilated Bb. in their minds and it is no doubt due to the fact that it held the first place there as the subject to be taught to the people. It was also natural that the leader should seek to prove himself innocent of breach of the laws that he himself taught the people to observe. The address is given at 12:3-25.

Chap.14:33-35. A large natural stone is used as an altar and Samuel again sacrifices. (Cf.Gideon.Ju.6:19-24).

Ch.29:3-25. Saul himself makes a breach of his own law confirming that of Bb.against sorcery (22:17),by visiting the woman at Endor.

2S.3:30. The law of blood revenge is administered not by the central authority, but by the family.('OTJC'. p.344).

Ch.12:6. David's demand that the lamb (of Nathan's parable) should be restored four-fold, is in exact agreement with Bb.(21:37).

Ch.19:21. Abishai demands that Shimei should be put to death for cursing the Lord's anointed - according to the law of Bb.(22:27).

The Books of Kings and Chronicles give some already familiar instances of our quest and one, especially, which is of outstanding interest.

Cases of laymen sacrificing are found in 1K.1:9 Adonijah, apparently; 3:4, Solomon.

1K1:50. Adonijah takes hold of the horns of the altar (Bb.21:14) to escape from Solomon.

Chap.2:28ff. Joab is killed at the altar whither he had fled for safety. So Athaliah, 2K.11:13-16.

Chap.21:10-14. Jezebel secures the death of Naboth by suborning witnesses to swear to a false charge against him of a breach of a law contained in Bb.(22:27), blasphemy against God and the king. At the same time and by the same action she herself breaks several of its laws, but particularly 23:1 and 7.

The period of the Monarchy is, next in time after the Mosaic, the most vital for the consideration of Hebrew law, and the name of Josiah is the all-important name connected with it. The Chronicler writes, as is well known, (W. Bruce Taylor. Art. 'Chronicles' HDB. I vol.) from a particular religious point of view. But he seems to have a special interest in the reform of Hebrew law. (Haller. 'SAT'. II. 3. p. 296). While as a rule he writes on the basis of P., there are traces that his sources now and again take him further back. This is most markedly the case in his treatment of Jehoshaphat's activities. In the case of Josiah, he is content to repeat the record of the Book of Kings; but with regard to the former as Haller with justice asserts, he follows an older and trustworthy source. There can be little doubt that in the time of Jehoshaphat there was a distinct movement for reform and it bore more particularly on the right conception and practice of Israelitish law. A religious mission seems to have been an initial part of the movement (2C. 17: 7-9). Here the area of the mission was 'all the cities of Judah'; the personnel, captains and priests; the modus operandi, teaching; the subject, the Torah of Yahweh; the effect, fear falling on all lands round Judah and peace. If the Torah in this instance were Bb. it is to be taken that the missionaries engaged in exposition and exhortation.

With regard to the reform of justice in the same reign, whether in connection with the religious mission or subsequent to it, which is difficult to determine,

it seems certainly to have been carried out on the basis of Bb. And even here (2C.19:4-11) it is found in close connection with Jehoshaphat's religious reforming zeal. He "went out again"(v.4), from furthest south to furthest north in Judah, among the people and "brought them back unto the Lord"; while in his address to the judges whom he set in "all the fenced cities" he combines the civil and religious elements quite in the manner of Bb. It is no wonder that, as Haller points out, it has been understood that the 'law' upon which the reform was founded was none other than Bb. The judges are to judge for Yahweh and not for men; that is, Yahweh is the real Law-giver. He is with them in the act of decision. The fear of Yahweh be upon them. Let them take heed for there is no iniquity with Yahweh, nor respect of persons, nor taking of bribes. Moreover, in Jerusalem Levites, priests, and heads of families were appointed to judge hard cases and the emergence of the civil element further instanced in the last verse of the passage can hardly mean anything but one in the case of a writer with such proclivities as the Chronicler, namely that here, notwithstanding the thin superficialities of late verbal dressing, we are in reality back with an early source in the early period.

The Chronicler's narrative is in short a testimony to the living influence of Bb. in the reign of Jehoshaphat (c. 874).

The most prominent name in the regal period in our concern being that of Josiah, we may now pass on to consider the influence of Bb. on Hebrew Law. This need

not detain us more than a moment as the subject has seldom been far distant from any department of our discussion, and is especially dealt with in the first half of Chapter VI. The composer(s) of D. set the signal honour upon Bb. of adopting it as their standard and of assuming it practically in toto into the new Code. This was the method which the representatives of a later age adopted by way of whole-hearted acknowledgment of its Mosaic origin. They dared not have done so had it not been Mosaic. Because it was Mosaic in its origin, they dared do nothing else. That is the complete philosophy of the testimony of Deuteronomy to the Book of the Covenant. More imposing in its magnitude but not nobler in its spirit, D. has usurped the place and prestige of Bb. whereas its real and proper function is that of handmaid to minister to the fame of Bb.

But while D. marked its opinion and appreciation of Bb. in this unqualified fashion, it rendered its ancient and genuinely Mosaic model a calamitous disservice by so completely absorbing it. For first, it obscured, and continues to this day to obscure, the real origin of all that is best in it; that is, from all but the truly observant. Second, there were elements in D. which led up to an increasingly deteriorated conception of Divine and Mosaic Law, the ultimate consequences of which have been traced in the opening chapter..

It is again a striking testimony to the original and abiding force of the character of Bb. that it continued to exert an unmistakable independent influence

on subsequent life and thought in Israel and in Christianity.

The influence of Bb. on the Prophecy of Israel is as direct as any. When the fact is clearly realised that previous to the appearance and the acceptance of D., Bb. had the whole ground to itself as the only body of law extant possessing Mosaic authority, the attitude and work of the prophets is seen in its true light. The critical theory that has long been in vogue is confused and impossible. It cannot tell whether Law or Prophecy was first. (Cornill. 'Intro.' p. 104; and many others). It credits Prophecy with colouring, if not with creating, Bb. and D., both. It may have had something to do with the latter; it certainly had nothing to do with the former.

And it is, further, impossible that the prophets could have used the language they so consistently do, if they spoke first. They are not, as criticism has held, creating an ideal; they are deploring and denouncing disloyalty to an ideal long ago created which the people have forsaken. With the whole fervour of their being the prophets, in the midst of the heart-breaking indifference of their hearers, continuously recall the people to that ideal. There may be taken as an instance the bold anthropomorphism of Jeremiah, of God rising up early and speaking, rising up early and protesting, rising up early and daily sending prophets. That is beyond a doubt the position in the main. On the other hand, it is not to be supposed that Bb. in every one of its parts was an ideal and a final one at that. The prophets and the centuries clarified the revelation and here and there as we have seen, and

Cook gives an excellent example of it(cited on p.215 supra), they 'enabled with perpetual light', through their intercourse with the Divine, the elements of Bb. which still lingered, perhaps, in the dulness of its current epoch.

Dr. Charles sets forth the point admirably in his most recent work, 'The Decalogue', p. liliif. "The eighth century prophets", he says, "take the Decalogue for granted. They do not regard themselves (Burney. JTS. 1908. p. 331) as founders of a new type of Yahweh-religion; but as interpreting and insisting on religious essentials which ought to be patent to Israel at large. It is difficult to understand the severity of their language if it was aimed not against a moral declension but against a stage of morals which as yet knew no higher ideal." (The italics, represented by underlining, are his.) The Decalogue alone, however, seems to me hardly able to bear the weight of his argument, and these 'religious essentials' of which he speaks are represented far more and far better by Bb. than by the Decalogue.

There is no question as to which is first and again it is the belittling and the neglect of Bb. that has been wholly responsible for an amazing misinterpretation of the signs and of the plain facts of the history.

Amos supports his biting invective of the oppressors of the poor (5:11,12) from Bb. for he mentions in one breath afflicting the just, taking a bribe, and turning aside the poor (from their right). Israelites themselves sell their righteous brethren for silver and the poor for a pair of shoes. They lay themselves

down by every altar upon clothes laid to pledge(2:5,8. and Bb.23:7; 22:25). He also refers in sarcastic terms to the use of leavened bread on the altar(4:5 and Bb. 23:18.('OTJC'.p.345.))

In addition to several other instances of reminiscence of the language of Bb. Hosea has the following (2:17): "For I will take away the names of Baalim out of her mouth and they shall no more be remembered by their name.(Bb.23:13).And his famous 6:6 is in a sense both a summary and a prophetic expansion of Bb.

Isaiah's catalogue of the people's crimes in Ch.1.reproduces both the thought and the language of Bb.in many instances. (Cf.especially vv.17,23). And so in 5:23; 10:1+2; 33:15.

Micah protests against the taking of bribes (3:11); against idolatry (5:13); and against witchcraft (5:12).

But of all the prophets the greatest witness to Bb.is Jeremiah,who actually brings Bb.in being before us.

Sir George Adam Smith has dealt with the relation of Jeremiah to Deut.with all the skill that even he can command;but he does not convince us,nor,I think,does he quite convince himself,that Jeremiah accepted the newly discovered Code. Indeed there is evidence in what he says that Jeremiah was antagonistic to it.Confessedly,at least,Jeremiah is silent about its discovery ('Jeremiah'p.134). Neither does his biographer mention it (ib.). Jeremiah did not agree with its teaching on at least one cardinal point (p.138). Dr.

Smith states (p.140): "Nor did he ever throughout his ministry protest against the substitute which the Book prescribed for those (high places and pagan ritual) - the concentration of the national worship upon a single sanctuary." It seems to me that could only be for one of three reasons: either because the book did not contain it; or because he had not heard of the book; or because, having come to know it, he ignored it. But it is hardly possible to imagine him doing the last. Either he must have openly accepted or rejected; but there is no evidence that he did the one or the other. We seem left therefore with the first two alternatives; but again there is no evidence to be found in Jeremiah that he ever considered the question of centralisation at all. So that on the face of it the Book of Jeremiah may be taken as witnessing quite as much to the possibility of his not knowing the new Code as to the possibility of his endorsing it.

Dr. Smith's belief in Jeremiah's "fervent assent to the ethical principles of Deuteronomy and of the charge to him to proclaim these throughout Judah" loses its weight as against Bb. by the consideration that the ethical principles of D. are just those of Bb. (ib. p.143).

On the other hand, Dr. Smith takes no notice of the attitude of the newer criticism which seems to be rapidly gaining ground and is represented by such writers as Horst and Hölscher. These hold the date of Deut. to be much later than 620 B.C. In an article in ZDMG. (Band II. Heft 2. pp. 220-238) the former, in a long

discussion of this very question of Jeremiah's relation to D. posits the following findings: that Jeremiah, the alleged contemporary of Josiah, knows nothing of a Deut.; that Jeremiah made his very first appearance after the battle of Megiddo in 608; that standing so close to the Elohist as he does, one must naturally expect Jeremiah would have been compelled directly to make clear his relationship to Deuteronomic ideas, but in the whole genuine Jeremiah not a trace of this is to be found. (Hölscher also believes D. to have originated in 500 B.C. and, practically never to have had any validity.)

Taking ch. 11 as Dr. Smith treats it, his question (p. 145): In Josiah's reign what else could 'this Covenant mean?' is countered well enough, if Jeremiah were opposing D., as I hold he is, by the question: What else could it mean than Bb? The description suits the conditions of Bb. It is exactly how Jeremiah would describe Bb. if he meant that Covenant. The words have a much more natural ring than when applied to D. Why should Jeremiah say of the commands of the new D. "they (the people) did them not". They are perfectly comprehensible when applied to Bb.

Dr. Skinner's appeal to Deuteronomic phrases and the appropriateness of Jeremiah's using them is but another begging of the question and is entirely vitiated by the startling fact that in vv. 4 and 5 referred to there are no distinctively Deuteronomic phrases at all. There are phrases which were used in the (traditional) Deuteronomic period but which were in use long before

D. as may be seen from 1K.8:51; 2S.7:24,&c.,&c.

Dr. Smith's corroboration of Skinner in the matter of the 'haunting style' of D. is of no value seeing there are far more numerous and direct traces of Bb. in Jeremiah than of D. (Cf. p. 83 supra; and infra following).

Jeremiah was shocked at the emphasis laid by D. on a definite ritual, no matter what theory of centralisation be maintained; and he threw the whole weight of his teaching on the side of moral and spiritual religion, the very respects in which Bb. is prominent.

Finally, had Jeremiah stood definitely by the new Code, that circumstance would have had many consequences which could not have been successfully concealed from all subsequent observation. Everything would have been made of it by the reformers and Jeremiah's influence would have had such decisive effect as would without fail have somehow made itself known.

Taking now Ch. 7:1-15 in the light of its proper significance as established above (p. 170f.), it is interesting indeed to trace in it absolute proofs of quotation of Bb. All the concepts are in agreement; but in addition to that there are no fewer than ten words and phrases which are native to Bb.; while - and this is very striking - there are also as many as ten infinitives absolute!

Other passages like 5:28 and 22:16 reproduce the high ethical urge of Bb. in its own language; while Jeremiah's lengthy treatment of the failure of the people to liberate the slaves according to the law of Bb., with

all its home-thrusts of stinging invective, is incomprehensible merely on the ground of the recently discovered D - which must have taken not a little time to make its way to acceptance at the best. The motive for the long neglected observance of the old law seems attached more to the external political situation rather than to any peaceful internal event like the discovery of D.

The whole prophetic movement before the Exile therefore based itself upon the Torah of Moses as found in Bb. The prophets felt they could consistently do this even with all their antagonism to ritual, because Bb. magnified as we have seen, all that spelt justice, righteousness, mercy, truth and simple faith - the very things upon which they most insisted; the very things that were calculated to make their hearers loyal and true servants of Yahweh.

As forming a path of transition from the Prophecy of Israel to the Exile, we may take the Book of Psalms. Apart from such references to justice for the poor as are to be found in Pss. 10:17; 72:12-14; 82:4, it may be said that it was as a natural consequence of the teaching of Bb. that the oppressed righteous of the people denominated themselves peculiarly the 'poor', because these are there the objects of God's strong divine defence. (Bb. 23:6; 22:20-23, &c.). But the most notable thing in this region is the 15th Ps., which is a concise decalogue of the righteous man's virtues culled directly, one is justified in saying, from Bb. The decalogue form is well pointed out by Briggs ('Psalms'. vol. I. p. 112).

Every one of its items represents a phase of Bb. But the last two at least are quite evidently quotations from Bb. and not from D., for D., as we have seen did not make the prohibition against the taking of interest universal as did Bb. and as does this Psalm.

Further, the Psalms more than any other of the OT. books repeat the fine expansion, which made its appearance early, of the grand theme of the graciousness of God to which Bb. gave the first and original expression (22:26). It says much for the true grasp the people of OT. times showed of the character of God that this theme in such beautiful words should receive such plentiful utterance. It occurs at Ex. 34:6. 2C. 30:9. Ne. 9:17, 31. Jo. 2:13. Jon. 4:2 and here in the Pss. at 86:15. 103:8.

111:4. 112:4. 116:5. 145:8. It occurs also, as we shall see, three or four times in the Apocrypha. ^{© All writers follow Bb, in u} ing יְיָ of God only.

That Bb. went into exile with the people is clear from the fact that so much of it is preserved in H. as we have seen (p. 198 supra).

I am convinced that the people returned from captivity with Bb. still very much, in their minds. The Book of Nehemiah affords ample and indisputable proof that the people in their reconstructions went back to the beginning of things in their history and took Bb. in the main as their model. For this speak the remarkable emphasis Nehemiah lays on his protest against the imposing of interest on the poor; (chap. 5); the confirming of the decisions for the liberation of the slaves, and the leaving of the land fallow every seventh year, as well

as against intercourse with the people of the land; and last, but not least, Nehemiah's personal use of the noted expression of God's graciousness which occurs twice (9:17, 31). Thus, even though later codes are now in the field, it may with truth be said that Bb. played its part at the beginning of this new era and in the founding of the institution which may itself be called the Church and which was to have some influence on the Christian Church of later times. (Haller. 'SAT'. II. 3. p. 193f.).

Ezekiel and the post-exilic prophets are undoubtedly still influenced by Bb. The former's catalogue of sins in Jerusalem (ch. 22) enumerates idolatry; setting light by father and mother; oppression of sojourner, and especially widows; carrying tales; and taking bribes. So ch. 18 in the description of the good father and good or bad son.

Malachi not only describes oppression and injustice in Bb's terminology (3:5-6), but he has an interesting suggestion of Bb's 'Angel' (3:1) to which further reference will be made later.

Haggai, it will be recalled, exemplifies the oracular method of law-making with which the people were no doubt originally familiarised through Bb. And Zechariah 7:9-10; and 8:16-17, on justice and right treatment of dependents, reads like pure Bb. Lastly, Joel and Jonah both, as we have seen, celebrate the theme of the graciousness of God.

The Wisdom Literature, especially Proverbs, bears constant and direct reminders of the themes with

which Bb. deals from the beginning. It is good to think that the sages gave instruction on such practical moral and civic subjects as justice to the poor (31:9); the real unwisdom of 'respect of persons' (18:5); judicial rectitude and all that that implies of truthful and right relationship between man and man (17:15, 26. 19:5, 9, 28. 23:7); the hardship of the imposition of usury (28:8). Further, according to Volz ('SAT'. III. 2. p. 176), these educators appealed to all that was best in the heart of youth, inspiring them to combat the natural instinct of retaliation by feelings of forgiving love, and here surely is something of the harvest being reaped of the seed that was sowed in Bb. which, as we have seen, in advance of any other law, taught consideration for the property and, indirectly if not directly, for the person of one's enemy. (25:21, 22. 24:17, 18).

The Book of Job has references to the 'pledges' of Bb. in 22:6, 25; and to widows, orphans and poor, in 24:3, 9. There is much of the feeling of Bb., moreover, in ch. 24; while the interesting fact is worthy of notice that twice in ch. 31 occurs the word נִשְׁבָּע , (vv. 11 and 28) which is a word only appearing in Bb. in all the OT. prose. (p. 75 supra).

The Apocrypha furnishes remarkably frequent indications that Bb. was not forgotten in the period intervening between the Testaments.

2 Esdras 2:20 urges a number of points of humanity and justice specially mentioned in Bb; while in v. 31 of the same chapter 'For I am merciful' seems a

quotation rather than a reminiscence of Bb.22:26. There is further a remarkable expansion and exposition of the great phrase in ch.8:62-70.

The points of contact in Ecclesiasticus are numerous and striking. He has the phrase of God's graciousness in 2:11. Respect of persons is dealt with in 4:22,27; 7:6; and 42:1. The crowd of evil-doers (Bb.23; 2) is mentioned in 7:16. The bribe is spoken of (20:29) as blinding the eyes (Bb.23:8). In 24:23 he surely mentions Bb. by name, using the words quoted at the beginning of this chapter. And finally, I consider we have two direct quotations in 35:4 "See that thou appear not in the presence of the Lord empty", and in the same chapter, v.8., "Stint not the first-fruits of thine hand."

The Wisdom of Solomon is another clear witness to Bb. and its abiding influence upon Israel's sacred literature. Ch.2:10,12 refer to oppression and injustice in like terms. There is a fine use of the expanded theme of God's graciousness in 15:1. But the most remarkable contribution of this book is another direct quotation in the course of a commentary on the historical situation in the midst of which Bb. is placed. There (ch.12:8) we read: "Thou sentest hornets as forerunners of Thy host to cause them to perish by little and little." The two principle expressions in the verse 'hornets' and 'little by little' are, as it happens, conjointly absolutely peculiar to Bb. and D. only, with the exception that Bb. has 'hornets' in the plural; whereas D. has the singular. It will be seen, then, which of the two is quoted!

Finally, in the History of Susanna (v.53), Daniel charges one of the elders with a series of offences such as are mentioned in Bb.23:7,&c.

The influence of the Book of the Covenant did not exhaust itself even on the OT. and the Apocrypha. I think it may be seen from a survey of the four Gospels that it influenced the mind of the Master Himself, and from the story of the Acts of the Apostles that it influenced the leaders of the early Christian Church at a critical juncture of its history.

It will be remembered that in the Sermon on the Mount Jesus quotes a number of the regulations from OT. Law. One of these, at least, he cites from Bb. in the words of Bb., namely the lex talionis, 'An eye for an eye and a tooth for a tooth' (Mt.5:38; Bb.21:24). This is the only one that is cited directly although there is a possibility that, in view of the general loose quotation of OT. in NT., others may be attributable to Bb. as well. Two are from the Decalogue though one of these is accompanied with a variation apparently from the Book of Enoch (Mt.5:21). Two are apparently from D., and one is partially from H. But the most striking thing in connection with the situation is that the words and sentiment with which Jesus supersedes the whole of the old Law (Mt.5:44), may be claimed to be borrowed from Bb. itself. Oppression, suppression, and such 'persecution' are familiar subjects in Bb. and yet it is there first of all that consideration for a man's enemies is directly incul-

cated in the form of a law. Even if the form of words which Jesus uses to supersede the old law be found to resemble H. more than Bb., that does not alter the fact that H. at its best as well as D. at its best is but an assimilation of the spirit and teaching of Bb. It is a signal honour that Bb. should have held such a place in the mind of Jesus that it quite obviously does.

It seems to me, for example, that he had it in mind when he spoke his memorable words that the Sabbath was made for man and not man for the Sabbath. The words are instinct with the spirit of Bb's humanitarianism.

Again, when he says (Mt. 7:6) "give not that which is holy unto the dogs" he almost unmistakably quotes Bb., for, as we have seen, the phrase occurs nowhere else in OT. Moreover, it is used only by Jesus in NT., and only once again by him in his conversation with the Syrophenician woman.

Further I think it is clear he is citing Bb. and not Malachi in his words: "This is the man of whom Scripture says, 'Behold, I send my Messenger before thy face.' " Malachi does not speak of 'thy' but of 'my'. But when we turn to Malachi we are at once referred to Bb. again, for Malachi identifies him as 'the Angel of the Covenant'. (3:1)!

Finally one of the best loved passages in NT. (John 14:2) seems to me beyond doubt a quotation from Bb. "I go to prepare a place for you" seems to me a tacit reproduction on the part of Jesus of the language of a book he apparently knew well and loved much. I know how

the genuineness of the words may be questioned; but in any case it would have been like him to do this. Bb.(23:20) speaks of "the place which I have prepared" and Jesus adopts and adapts the words, the idea, the function even, for a more solemn if a more individual experience of the pilgrim soul. And so he links together the old and new, the national and the individual, the earthly and the heavenly in one view, thinking as always in the terms of the unseen and eternal.

The leaders of the early Church found counsel in Bb. In Acts 15 lies the record of a dispute with regard to circumcision which threatened to annul all hope of progress for the faith among the Gentiles. In the Council of apostles and elders which was held at Jerusalem to consider the situation, the decision was reached that circumcision must not be insisted on for the new converts; but three simple yet cardinal points were emphasised as essential. Two of these, if not all, they found in Bb. All new converts must abstain from pollution of idols (Bb.20:23); from fornication; and from (so Cod.D. & others) blood. (Bb.22:30). Thus they turned back to the original law which laid stress not on the ritual or ceremonial but on the moral. (Cf. Peake's Comm. p.793b).

It is surely notable also that the first martyr fell a victim to a false charge of a breach of one of the laws of Bb. (22:27), the charge of blaspheming against God and the leader.

Other parts of NT. yield their quota of respect to Bb. Paul acknowledges his unwitting breach

of the last mentioned law (Acts 23:3-5). He too, like the sages, urges to the forsaking of retaliation and the practice of the opposite in positive benevolence to an enemy (Rom. 12:19-21). In the pastoral epistles the law is said to have been made for the sort of people who did - just the offences specified, say, in Bb. And finally, James in his epistle seems to cast his thoughts all the way back to Bb. when he is seeking for an adequate definition of religion and finds it in that practical benevolence of the spiritually minded person who will "visit the widows and fatherless in their affliction."

Through the medium of the NT. the Book of the Covenant may be said therefore to have served the subsequent Christian centuries well, and that is no mean tribute to its abiding worth. One blot upon these centuries may, by the unthinking, be attributed also to Bb. Comparatively late in these centuries all over Christian Europe thousands of women accused of the crime of witchcraft suffered the death-penalty because a law in Bb. demanded it. But reference has already been made to the superseding by Jesus of the old law generally and of how Bb. was in itself half prepared for supersession in his spirit. The law was better interpreted apparently in the earliest than in the latest centuries; for there was a sorcerer in the NT. who was not killed but converted (Acts 8:13); there was also one who perhaps conformed more nearly to the letter of the description of the law - a "damsel possessed of the spirit of divination" who was brought likewise into the family of the

faith. That is the spirit in which the Master would have had the law interpreted throughout and they, not the law of many centuries before the Christian era were at fault.

In this spirit Jesus set his seal to Bb. He recognised in it something of value for himself; he recognised in that and otherwise its abiding worth; and when he was at the place of its promulgation in the far back time, in conversation with an obscure woman of the locality he uttered these epoch-making words, assembling and assimilating all that was spiritually good in the old with the spiritual future of the new: "Neither in this mountain, nor yet at Jerusalem, shall ye worship the Father; but the hour cometh, and now is, when the true worshippers shall worship the Father in spirit and in truth."

(Smith. 'HGHL'. p. 334).